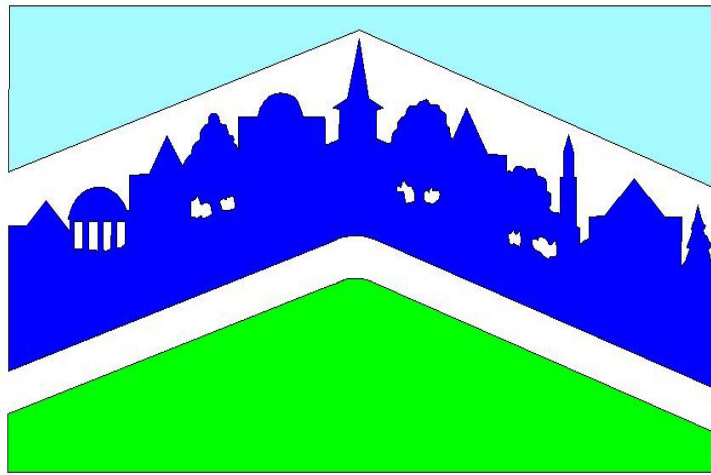


Chapel Hill, North Carolina

Land Use Management Ordinance



Adopted January 27, 2003

Latest Amendment April 10, 2006

**Town of Chapel Hill
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For North Carolina general laws which authorize the Town to regulate zoning, subdivision of land and other land use and development matters, and which establish some procedural requirements for the Town, see N.C. G.S. 160A-299, -360 through 458.2 and other statutes listed in § 1.2 of this Chapter. See also in the Town Code book, §§ 5.8 through 5.33 of the Town's Charter and §§ 5 and 17, 24 and 25 of the Charter Appendix.

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HOW TO USE THIS DOCUMENT

This section, How to Use This Document, is for purposes of explanation of the organization of this document and is not part of the Ordinance enacted by the Town Council.

Organization of Land Use Management Ordinance

The Chapel Hill Land Use Management Ordinance establishes standards and procedures for new development or redevelopment in the Town. The Land Use Management Ordinance is not designed to be read from cover to cover. Instead, it is organized so readers may look up only the parts they need. The list of articles and divisions in the table of contents shows the main topics and overall organization of the Land Use Management Ordinance, while the section listings at the beginning of each division provide more detail about the subjects addressed. Later portions of this introduction explain different ways to use the Land Use Management Ordinance to answer frequently asked questions.

The major purpose of the Land Use Management Ordinance is to implement the Town's adopted *Comprehensive Plan*. It is designed to provide clear rules about what is expected of applicants in order to gain approval to develop land in the Town.

The format of the Land Use Management Ordinance follows the layout of all chapters in the Town Code. The article, division and section numbers use a uniform numbering system. Major topics within the chapters are called articles. The articles are divided into sections. The articles are summarized below.

The first article, called **General Provisions (Article 1)**, contains some basic information on the legal framework of the Land Use Management Ordinance. It describes the purpose and scope of the Ordinance, setting the stage for the remainder of the document.

Use Patterns (Article 2) is reserved for future reference.

Zoning Districts, Uses, and Dimensional Standards (Article 3) contains regulations for the General Use zoning districts, overlay zoning districts, and special zoning districts. These regulations establish the uses that are permitted in each zone. They also state which uses are allowed in limited situations, known as "special exceptions," and which are prohibited. Development standards for each General Use zoning district are also included. These standards include limits on the maximum height, required setbacks, and (for several districts) building size. A schedule of these standards is shown in Section 3.8 and is referred to as the "Dimensional Matrix." Sections 3.3 through 3.6 list the zoning districts. A summary schedule showing the permitted uses and special uses in all districts is presented in Section 3.7. This schedule is referred to as the Use Matrix. A summary schedule showing the minimum lot size, density, intensity, height, and impervious surface coverage in all districts is presented in Section 3.8. This schedule is referred to as the Dimensional Matrix.

Procedures (Article 4) tells the applicant how to obtain a permit, and describes what happens if the Land Use Management Ordinance is violated. This Article provides information on the Town's administrative framework and procedures that relate to land use and development standards. Section 4.1 provides general information about the application process, public hearings, and notification. Section 4.7 describes how to obtain site plan approval. Master Land Use Plans are large-scale development proposals, while Site Plans are required for particular types of uses (regardless of size or scale). Section 4.4 describes the procedures for obtaining zoning approval, including rezonings, conditional zoning, special uses, and permits for uses which do not require a public hearing (referred to as "ministerial" permits). Subdivision procedures are established in Section 4.6.

These procedures describe how to divide property into lots as well as the process for constructing and dedicating site infrastructure.

Procedures for Variances and Appeals are established in Sections 4.10 and 4.12. This includes procedures for zoning variances and subdivision variances. Section 4.13 contains both administrative and other legal remedies available to enforce the Land Use Management Ordinance.

The standards for land development are consolidated in **Development Standards (Article 5)**.

Special Regulations for Particular Use (Article 6). To avoid repetition, Article 6 contains regulations for specific uses and development types that apply in all General Use zoning districts. Examples include Accessory Dwellings, Home Occupations, and Wireless Towers. These uses may or may not be permitted as of right or as a special exception, depending on how they are listed in the particular district under the Use Matrix. The standards are designed to address particular issues that are raised by the particular use.

Definitions (Appendix A) defines key terms and a section on abbreviations used.

Special Districts and Overlay Districts. Overlay districts consist of regulations that address specific subjects that may apply to a variety of areas in the Town, such as requirements for historic districts and landmarks. Special districts are regulations that are tailored to a specific area of the Town or to a specific type of development. The Zoning Atlas identifies overlay districts as well as the base zoning districts and other information.

Flexible Zoning allows density bonuses where an applicant provides special amenities or has a special situation, such as retail redevelopment. Transfers of development rights (TDR's) are permitted between properties in order to encourage the protection of environmentally sensitive areas.

Numbering and Referencing

The numbering system is consistent with the system used throughout the Town's Code of Ordinances. Each section and subsection is keyed to the article and section as follows:

1	1.1	1.1.1	(a)	(1)
Article	Sections		Subsections	Paragraphs

Outside the section. When a reference is to text outside of the same section, the reference number starts with the article number and continues to the appropriate level for the reference. The names "Land Use Management Ordinance" and "Chapter" are used if the reference is to the entire Ordinance or Chapter.

Within the section. When a reference is to text within the same section, the name of the Subsection, Paragraph, or Sub-paragraph, as appropriate, is used, and the reference "number" starts with the appropriate subsection letter. For example, "See Paragraph (b) (2), below" refers to Paragraph 2, of Subsection (b), of the same section of the Land Use Management Ordinance.

Purpose Statements. The beginning of most articles, divisions and sections includes an *italicized purpose statement*. The purpose statement summarizes the Comprehensive Plan policies that the section is designed to implement, other relevant public policies, and fact-findings governing the section. These purpose statements provide the basis for the development standards, but are not standards. In other words, an application for approval of a development cannot be denied because of a conflict with the purpose statement. However, an application will be denied where it conflicts with the standards.

Determining the Regulations for a Specific Site

To determine the regulations of the Land Use Management Ordinance applicable to a site, the user must first find the site on the Zoning Atlas. The appropriate map will show the General Use zoning district that is applied to the site. The official Zoning Atlas is maintained at the Chapel Hill Planning Department.

The reader should then look up all the relevant regulations. Start with the General Use zoning districts (in [Article 3](#)). The General Use zoning districts state whether a use is allowed by right, allowed as a special use, or prohibited. The Dimensional Matrix contains the setback and building height standards that apply to the uses that are allowed. In addition, the reader should consult the Supplemental Use Regulations to see if additional requirements apply to the use he/she is contemplating.

It is important to note that the zoning regulations also apply to the unincorporated areas of Orange County which adjoin the Town and which are subject to the Town's zoning and subdivision approval authority. These areas are known as the extraterritorial jurisdiction ("ETJ"), and the Joint Planning Transition Area.

Determining Which Procedures Apply

Each section of Procedures (Article 4) which contains a permitting process includes a subsection entitled “Applicability.” This subsection describes the situations where a particular process is needed. If the section applies, the reader should then consult the following subsections, which describe how an application is initiated, how an application is processed, the criteria for review, and cross-references to other parts of the Land Use Management Ordinance. In addition, most sections have a subsection entitled “Scope of Approval” which describes the rights granted to an applicant by the issuance of approval of the permit. Keep in mind that not all permits entitle an applicant to begin construction. In fact, most simply allow an applicant to proceed to the next step in the approval process.

ARTICLE 1. GENERAL PROVISIONS

1.1 Short Title

This Chapter of the Town of Chapel Hill Code of Ordinances (including Appendix A, “Definitions”) shall be known as and may be cited as the Chapel Hill Land Use Management Ordinance.

1.2 Authority

This Chapter is adopted pursuant to the authority contained in Chapter 160A; Chapter 143, Article 21 (Part 6) and Article 33C; Chapter 13A, Article 4; Chapter 136, Article 34; and Chapter 63, Article 4 of the N.C. General Statutes; and Chapter 473 of the Session Laws of 1975 and Chapter 278 of the Session Laws of 1965.

1.3 Purpose

The purpose of this Chapter is to provide for the regulation of development, as provided in the North Carolina General Statutes and the Town Charter.

1.4 Applicability

This Chapter shall be effective throughout the Town's planning jurisdiction. The planning jurisdiction of the Town comprises the area described by Chapter 473 of the Session Laws of 1975, as modified from time to time in accordance with Section 160A-360 of the North Carolina General Statutes.

Except as otherwise specifically provided in this Chapter, no land or structure shall hereafter be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved, except in compliance with all of the applicable provisions of this Chapter.

Notwithstanding the foregoing, regulations established in this Chapter as enacted on January 27, 2003, with the exception of occupancy restrictions for single-family and two-family structures, shall not apply to valid Special Use Permits, Development Plans, and Preliminary Plat applications approved by the Town Council, and valid Site Plan Review applications approved by the Planning Board, prior to the effective date of this enacted Chapter. Such developments shall be subject to regulations that were applicable immediately prior to the effective date of this Chapter as enacted on January 27, 2003, with the exception of occupancy restrictions for single-family and two-family structures.

The Ordinance shall apply to all public land(s) and private land(s), and use(s) thereon over which the Town has jurisdiction under the constitution(s) and law(s) of the State of North Carolina and of the United States, including any areas within the jurisdiction of the Town pursuant to North Carolina General Statutes Section 160A-360. The Planning Department (hereinafter known as the "Department") of the Town can be contacted for further information about the use of this Chapter.

1.5 Consistency with Comprehensive Plan

This Chapter implements the provisions of the Comprehensive Plan for the Town of Chapel Hill, adopted May 8, 2000, as may be amended from time to time, with an emphasis on the following major themes:

- Maintain the Urban Services/Rural Buffer boundary;
- Participate in the regional planning process;
- Conserve and protect existing neighborhoods;
- Conserve and protect the Town's existing natural setting;
- Identify areas where there are creative development opportunities;
- Encourage desirable forms of non-residential development; Create and preserve affordable housing opportunities; Cooperatively plan with the University of North Carolina at Chapel Hill;
- Promote the vitality of downtown;
- Work toward a balanced transportation system;
- Complete the bikeway/greenway/sidewalk systems;
- Provide quality facilities and services; and
- Develop strategies to address fiscal issues.

This Chapter incorporates the Goals, Objectives, and Strategies and Actions from the Comprehensive Plan which are appropriate for land use regulation.

1.6 Interpretation

The provisions of this Chapter are the basic and minimum requirements for the protection of public health, safety, and welfare. As provided by North Carolina General Statutes Section 160A-4, this Chapter shall be liberally interpreted in order to further its underlying purposes. In all cases, the strictest standards will be applied. Rules of interpretation and definitions, words, terms or phrases in this Chapter may be found in Appendix A. This Chapter contains numerous graphics, pictures, illustrations, and drawings. However, text of this Chapter shall control unless otherwise provided in the specific section.

1.7 Permits and Certificates

No development activity shall occur on any property subject to the regulations of this Chapter until all applicable permits, approvals and certificates have been issued and approved by the appropriate officials.

1.8 Fees

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for Zoning Compliance Permits, Special Use Permits, Certificates of Appropriateness, subdivision plats, zoning amendments, appeals, variances, and other development applications. The amount of such fees shall be fixed by the Council from time to time.

ARTICLE 2. USE PATTERNS [RESERVED]

[RESERVED]

ARTICLE 3. ZONING DISTRICTS, USES, AND DIMENSIONAL STANDARDS

This Article establishes zoning districts and describes the various uses permitted within the zoning districts, as well as design regulations. Several types of zoning districts are established. First, “General Use” districts (Section 3.3) divide the Town into various residential, commercial and industrial zones. Each district establishes uses that are permitted “as of right,” and uses permitted only as “special uses.” Special Uses require a public hearing in order to assess whether conditions are needed in order to make the use compatible with other uses in the district. The uses permitted in each district are listed in Section 3.7.

“Special” Districts (Section 3.5) involve uses which cannot be adequately addressed by the Base District regulations. Unlike the Overlay districts, these districts are independent of the General Use zoning districts. The Special Districts have separate use and design regulations.

“Overlay” Districts are established in Section 3.6. Within these districts, the standards of both the General Use and Overlay districts apply. These districts address special situations such as groundwater recharge, historic preservation, airport hazards, and utility conversions where the Base District regulations are not sufficient to protect the public.

One essential function of zoning is to regulate the dimensional aspects of development. Section 3.8 establishes regulations governing the configuration and location of lots, buildings, structures and paved surfaces. This includes lot size, density, intensity, lot width, and setbacks from streets and property lines. These standards are consolidated in a schedule called the Dimensional Matrix (Table 3.8-1). The amount of a lot that may be covered with built or paved surfaces (“impervious surface ratio”) is also established in the Dimensional Matrix.

Section 3.9 establishes incentives in the form of additional density and other regulatory measures in order to encourage redevelopment and enhanced site design. Landowners are permitted through rezoning to transfer densities from environmentally sensitive sites that are inappropriate for development to sites that are suitable for increases in density.

Some uses, while permitted in a zoning district, raise special concerns which require additional regulations. These regulations are established in Article 6. They apply regardless of whether the use is permitted as of right or as a Special Use within the district.

3.1 Establishment and Intent of Zoning Districts

The Town and its extraterritorial planning jurisdiction are hereby divided into zoning districts as enumerated below. The use regulations and intensity regulations applicable for such zoning districts are designated in Sections 3.7 and 3.8 of this Article.

3.2 Zoning Atlas

- 3.2.1 The boundaries of zoning districts described in this Article are hereby established as shown on the official Zoning Atlas which accompanies this Chapter and which, with all notations, references, and other information shown thereon, shall be as much a part of this Chapter as if fully described herein.
- 3.2.2 The official Zoning Atlas shall be authenticated by the Planning Director and shall be retained in the office of the Planning Department.
- 3.2.3 Copies of the Zoning Atlas, or portions thereof, may be made. However, the official Zoning Atlas is the final and sole authority as to the zoning status of land within the Town and its extraterritorial jurisdiction.
- 3.2.4 Amendments to the official Zoning Atlas shall be entered by the Planning Director. Maps and descriptions accompanying enacted amendments shall be displayed in the office of the Planning Department until such time as such amendments are entered on the official Zoning Atlas.
- 3.2.5 The Planning Director shall authenticate the entry of each amendment on the official Zoning Atlas and shall maintain a record of the nature and date of entry of each amendment. Changes to the official Zoning Atlas other than those authorized by duly approved amendments to this Chapter shall be prohibited.
- 3.2.6 Unless otherwise provided, zoning district boundaries shall be located on municipal corporate lines, section lines, parcel lines, natural boundary lines or on the center lines of highways, streets, alleys, or railroad rights-of-way. In cases where these lines are not used, the zoning district lines shall be as determined by using the scale of the official Zoning Atlas. If a parcel of land is divided by a zoning district boundary line at the time of enactment of this Chapter or by subsequent amendments thereto, the appropriate standards and uses for each zone shall apply on the portion of the parcel covered by that zone.
- 3.2.7 The Town Manager shall render a decision as to any dispute of the boundary or location of property within a zoning district in accordance with the procedures for Interpretations (Section 4.11 of this Ordinance):
- (a) When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream, or watercourse, the boundary shall be deemed to be the center line of such feature.
 - (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (c) Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.
 - (d) Boundaries indicated as separated from but approximately parallel to any of the features indicated above, or any land marked or monumental line, shall be deemed to be parallel to the aforesaid center line.

- (e) Distances not specifically indicated on the Official Zoning Atlas shall be determined by the scale of the map.
- (f) Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Official Zoning Atlas, the physical monument or marker located on the ground shall control.
- (g) Where physical or cultural features, such as flood plains, vary from those shown on the Official Zoning Atlas, or in other circumstances not covered above, the Town Manager shall determine the district boundaries.

3.3 General Use Districts

3.3.1 Town Center (TC-1, TC-2)

The Town Center (TC) districts are intended to provide for the development of the commercial, service, and social center of Chapel Hill while maintaining its character, its pedestrian-oriented scale, and its nature as a concentration of business, administrative, financial, governmental, and support functions serving the community; and to encourage further residential development in the central area of Chapel Hill. The zoning regulations for the TC districts are designed to achieve the following objectives:

- Buildings are designed and located so that they provide visual interest and create enjoyable, human-scale spaces.
- Building design blends with the natural terrain by means such as terracing or other techniques that minimize grading.
- Designs are compatible, in form and proportion, with the neighboring area.
- Designers strive for creativity in form and space wherever contrast and variety are appropriate to the larger environment.
- Buildings and projects include visual variety and also maintain a strong sense of unity.
- Buildings and projects include a high level of architectural detailing to help maintain a sense of scale.

Applicants are encouraged to consult the *Design Guidelines for Downtown Chapel Hill* (prepared by Downtown Small Area Plan Work Group, August 1998) before submitting an application for approval in a Town Center district.

3.3.2 Community Commercial District (CC)

The Community Commercial (CC) district is intended to provide for the development of high-intensity commercial and service centers that serve community-wide or regional commercial and service needs.

3.3.3 Neighborhood Commercial District (NC)

The Neighborhood Commercial (NC) district is intended to provide for the development of low-intensity commercial and service centers that are accessible by pedestrians from the surrounding neighborhoods, serve the daily convenience and personal service needs of the surrounding neighborhoods, and are of such a nature as to minimize conflicts with surrounding residential uses.

3.3.4 Office/Institutional – 4 District (OI-4)

See Special Districts, Section 3.5.2.

3.3.5 Office/Institutional - 3 District (OI-3)

The Office/Institutional-3 (OI-3) district is intended to provide for major educational, research, public service, and office uses, and their necessary support functions, while minimizing conflicts with adjacent land uses.

3.3.6 Office/Institutional - 2 (District (OI-2)

The Office/Institutional-2 (OI-2) district is intended to provide for medium - intensity office and institutional development.

3.3.7 Office/Institutional - 1 District (OI-1)

The Office/Institutional–1 (OI-1) district is intended to provide for low-intensity office and institutional development and, where appropriate, to serve as a transition between residential zoning districts and high-intensity nonresidential zoning districts.

3.3.8 Industrial District (I)

The Industrial (I) district is intended to provide for public and private uses of a wholesale, distribution, limited processing, and production nature serving the needs of the Chapel Hill community, and to ensure the compatibility of such uses with their surroundings.

3.3.9 Residential Districts (R-6, R-5, R-4, R-3, R-2, R-2A, R-1, R-1A, R-LD1, R-LD5)

The Residential districts are intended to provide for residential development of appropriate intensities consonant with the suitability of land, availability of public services, accessibility to major activity centers and transportation systems, and compatibility with surrounding development.

3.3.10 Rural Transition District (RT)

The Rural Transition (RT) district is intended to be applied to land which is used for agricultural, very low-intensity residential, or open space uses, but which is projected in the Comprehensive Plan for conversion to more intensive urban uses at such time as community services are available and community needs for such uses are present.

3.3.11 Materials Handling District (MH)

The Materials Handling (MH) district is intended to provide for public operation of a Solid Waste Management Facility.

3.4 Conditional Use Districts

For the TC-1, TC-2, CC, NC, 0I-1, I, R-6, R-5, R-4, R-3, R-2, R-2A, R-1, R-1A, R-LD1, and R-LD5 districts hereinabove described, there are hereby established parallel conditional use districts designated TC-1-C, TC-2-C, CC-C, NC-C, 0I-2-C, 0I-1-C, I-C, R-6-C, R-5-C, R-4-C, R-3-C, R-2-C, R-2A-C, R-1-C, R-1A-C, R-LD1-C, and R-LD5-C pursuant to North Carolina General Statutes § 160A-382. Under each conditional use district, all uses allowed as a permitted use or special use by Section 3.7, Table 3.7-1 (Use Matrix), for the parallel general use district are permitted only upon issuance of a Special Use Permit by the Town Council pursuant to Section 4.5 of this Chapter.

A Residential-Special Standards-Conditional (R-SS-C) District is hereby established, pursuant to North Carolina General Statutes Section 160A-382. Uses allowed in this district shall be those described in Section 3.7 and Table 3.7-1 (Use Matrix) of this Chapter, and are permitted only upon issuance of a Special Use Permit by the Town Council pursuant to Section 4.5 of this Chapter.

3.5 Special Districts

Special Districts have been created to deal with unique, location-specific situations where special standards and procedures are appropriate. The following Special Districts are defined below: Mixed Use Districts, Office/Institutional-4 District, Traditional Neighborhood Development District, and Transit Oriented Development District.

3.5.1 Mixed Use Districts

Purpose Statement: The Mixed Use Districts are intended to provide for the coordinated development of office, commercial, and residential uses and their necessary support functions in the vicinity of key highway intersections and transit corridors in Chapel Hill. They are designed to facilitate stated public policies to encourage design which emphasizes lively, people oriented environments and compatible, visually interesting development. This district provides areas where moderate scale mixed use centers can locate with an emphasis on development of a balance of residential, office and commercial uses.

It is further intended that the Mixed Use Districts shall encourage development within which mutually supporting residential, commercial and office uses are scaled, balanced and located to reduce general traffic congestion by providing housing close to principal destinations, and convenient pedestrian and bicycle circulation systems and mass transit to further reduce the need for private automobile usage. Mixed Use Districts are intended to encourage development that allows multiple destinations to be achieved with a single trip. These standards encourage a design such that uses within a Mixed Use District are arranged in a manner that encourages internal vehicular trip capture and the development patterns that encourage walking, transit and bicycling as alternatives to automotive travel.

When such districts adjoin residential development or residential zoning districts, it is intended that arrangement of buildings, uses, open space, and vehicular or pedestrian and bicycle access shall be such as to provide appropriate transition and reduce potentially adverse effects.

(a) Establishment of Mixed Use Districts

Three Mixed Use (MU) districts are hereby established. The boundaries of the Mixed Use Districts are as shown on the official Zoning Atlas. The districts are identified as Mixed Use-OI-1 (MU-OI-1), Mixed Use-R-1 (MU-R-1), and Mixed Use-Village (MU-V).

It is the intent of the Town of Chapel Hill to reserve the MU-OI-1 and MU-R-1 designations and regulations for areas already so zoned as of September 2002. The policy of the Town is to grant no further rezonings to MU-OI-1 or MU-R-1, and to reserve future Mixed Use Zoning designations for MU-V.

(b) Permitted Uses and Development Intensities – Mixed Use-Village (MU-V)

(1) The uses permitted in the MU-V districts include the following:

- A. Vertical mixed use buildings, or
- B. Uses listed in subsection (2), below, which are mixed horizontally. Uses are considered to be “mixed horizontally” where:
 - 1. Such uses comprise not less than the minimum, and not more than the maximum, percentage of floor area prescribed in subsection (b)(2)A, below; and
 - 2. Uses within a land use category set forth below, are located not further than eight hundred (800) feet from the uses located within another land use category; and
 - 3. The uses within separate land use categories, as set forth below, are linked by a continuous system of sidewalks or trails. Sidewalks or trails shall be considered “continuous” if they are interrupted only by street intersections, but shall not be considered “continuous” if interrupted by natural or man-made barriers to pedestrian and bicycle movement or by a street consisting of more than two lanes of traffic, unless a pedestrian and bicycle island is provided.

(2) Land Use Categories

- A. An MU-V shall include Office, Commercial, and Residential uses as described below. The mix of floor area within a proposed development shall contain at least 25 percent of the floor area devoted to residential uses and at least 25 percent of the floor area devoted to office/commercial uses.
- B. For purposes of this Section:
1. Uses within the “Residential” land use category include the following:
 - Dwelling Units, Single Family
 - Dwelling Units, Two-Family with Accessory Apartments
 - Dwelling Units, Duplex
 - Dwelling Units, Multi-Family, 3 to 7 dwelling units
 - Dwelling Units, Multi-Family, over 7 dwelling units
 2. Uses within the “Non-Residential” land use category include the following:
 - Business, Office-Type
 - Child/Adult Day Care Facility (See Section 3.6)
 - Clinic
 - College or University
 - Fine Arts Educational Institution
 - Hotel or Motel
 - Research Activities
 - Bank
 - Barber Shop/Beauty Salon
 - Business – Convenience
 - Business – General
 - Business – Wholesale
 - Manufacturing, Light
 - Personal Services
 - Public Service Facility
 - Publishing and/or Printing
 - Recreation Facility: Commercial
 3. Uses not enumerated above shall not be considered to be within a residential or non-residential land use category within the meaning of this Section.

(c) Dimensional Restrictions

- (1) Except as otherwise specifically provided in this Section, regulations governing the dimensions of lots and buildings are hereby established as shown in Table 3.8-1.
- (2) Permitted density shall not exceed 15 dwelling units per acre and permitted intensity and impervious surface restrictions shall be as established in Section 3.8, Table 3.8-1 unless development rights are transferred pursuant to Section 3.9.2 of this Chapter. The frontage and setback requirements shall not apply to Parks and Open Space.

(d) Mixed Use Development Design Standards – MU-V

- (1) All design standards specified in Article 5 of this Chapter and in the Town's Design Guidelines in effect at the time a proposal is being reviewed shall apply to the design of development proposed as a mixed use development as defined by this Article along with the provisions of subsections (2) through (5), below.
- (2) Any application for mixed use development shall include a Concept Plan as provided in Section 4.3 and a Site Plan as provided in Section 4.7 of this Chapter. The Site Plan shall include a phasing plan that specifies the stages of development build out. The Phasing Plan shall identify the sequence of development for the land uses shown on the Site Plan. The Phasing Plan information may be prepared as a plan, a table, or a report. It shall include general phasing of internal and external traffic circulation systems, amenities, and utility improvements that will be constructed concurrent with the land use development. Land use development scheduling shall include a general indication of size, either in square footage or acres. The plan shall also indicate the expected impact of the development on existing or proposed public facilities, including but not limited to, streets, transit, schools, water and sewer systems, and public safety. The applicant shall provide assurances that all the use categories will be constructed and that the project will, in fact, result in a mixed use development satisfying the Purpose section of this district. The applicant shall include all of the required use categories (residential, commercial, and office uses) in the first phase of the project.
- (3) Outparcels are hereby defined as development or parcels of land generally located at the perimeter boundary of a mixed use development. All plans for outparcels within a mixed use development proposal shall include a set of design criteria for the outparcel(s). These design criteria shall be prepared to maintain visual compatibility and overall design compatibility with the entire development. The criteria shall address the location, form, scale, materials and colors of structures as they relate to the design concept of the entire development, and shall be consistent with the Design Guidelines.
- (4) Off-street parking requirements shall be 50% of the minimum parking requirements listed in the Parking and Loading Standards (Section 5.9 of this Chapter).

- (5) The applicant shall provide a bus stop consistent with the design criteria of Sections 21-7 and 21-28.1 of the Town Code of Ordinances. Such stops shall be located within one-half (½) of a mile of all dwelling units or office buildings. Notwithstanding the provisions of Section 21-7 of the Town Code of Ordinances, a resolution of the Town Council shall not be required prior to the designation of bus stops. Instead, this Section only requires that bus stops be indicated on the subdivision plat or site plan. Different locations may be designated by resolution(s) of the Town Council following approval of the mixed use development.
- (6) Buffers are not required between different uses or use categories within the MU-V District.

(e) Permitted Uses and Development Intensities - Mixed Use-OI-1

- (1) The uses permitted in the Mixed Use OI-1 Zone, except in situations described in subsection (2) below, are single and two family dwellings, and those other non-residential uses listed in Section 3.7 as permitted in the OI-1 zone, except that "Medical Aircraft Hangar" is not permitted. The land use intensity ratios, setbacks, and height limitations that apply in the Mixed Use Zone, except in situations described in subsection (2) below, are those that apply to the OI-1 zone, as set forth in Section 3.8.
- (2) If development of property in a Mixed Use-OI-1 zone is proposed, and the proposal meets all of the following thresholds, then the set of permitted use and intensity regulations described in subsection (3) shall apply. Those thresholds are:
 - A. Minimum lot size of 20 contiguous acres (may include parcels on both sides of a street).
 - B. Uses proposed in one of the following combinations:
 - Office, Commercial, and Residential uses
 - Office and Commercial uses
 - Office and Residential uses.
 - C. At least 60% of floor area devoted to "business, office-type" uses, as defined in this Land Use Management Ordinance.
 - D. No more than 85% of floor area devoted to "business, office-type" uses.
- (3) If a development proposal in a Mixed Use-OI-1 District meets all of the thresholds listed in subsection (2), then the following use and intensity regulations shall apply:

- A. For commercial floor area, permitted uses shall be those listed in Section 3.7 as permitted uses in the Community Commercial (CC) District, except as noted in paragraph D below.
- B. For residential floor area, permitted uses shall be those listed in Section 3.7 as permitted uses in the R-5 District, except that in addition, multifamily development of more than 7 units shall be permitted.
- C. For office floor area, permitted uses shall be those listed in Section 3.7 as permitted uses in the OI-1 District.
- D. The following uses are not permitted in the Mixed Use-OI-1 Zone:
- Automotive Repair
 - Automotive, Trailer, and Farm Implement Sales or Rental
 - Kennel
 - Supply Yard
 - Veterinary Hospital
- E. Dimensional Standards shall be those listed in Section 3.8, for the Community Commercial (CC) Zone.
- F. For the portions of a site devoted to residential development, the density limitations described in Section 3.7 for the R-5 zone shall apply.
- G. Minimum Setbacks from the perimeter boundary of the specified development tract shall be as follows:
- Street: 50 feet
 - Interior: 50 feet
 - Immediately Adjacent to Residential Use or Residentially Zoned Property: 50 feet
- H. Minimum Setbacks internal to the specified development tract shall be as follows:
- Street: 0 feet
 - Interior: 0 feet
- I. The Minimum Setback parking area from the perimeter boundary of the specified development tract shall be 75 feet from the street.
- J. Maximum Height Limits shall be as follows:
- Primary: 44 feet
 - Secondary: 90 feet

- K. Type "C" buffers shall be required around all perimeters of the development tract, except in circumstances where a higher level of buffer is required. A Type "D" buffer with a minimum width of 50 feet shall be required adjacent to a non-interstate arterial street.
- (4) All design standards specified in Article 5 of this Chapter and in the Town's Design Guidelines in effect at the time a proposal is being reviewed shall apply to the design of development proposed as a mixed use development as defined by this Article with the following special provisions:
- A. Site Analysis: Any application for mixed use development shall include a site evaluation analysis which identifies the physical character of the site. Elements of the site to be investigated include topography, slope conditions, soil characteristics and subsurface constraints, drainage patterns, vegetation, and other existing conditions.
 - B. Outparcels: Outparcels are hereby defined as development or parcels of land generally located at the perimeter boundary of a mixed use development. All plans for outparcels within a mixed use development proposal shall include a set of design criteria for the outparcel(s). These design criteria shall be prepared to maintain visual compatibility and overall design compatibility with the entire development. The criteria shall address the location, form, scale, materials and colors of structures as they relate to the design concept of the entire development, and shall be consistent with the Design Guidelines.
 - C. Off-street parking requirements shall be 80% of the minimum requirements listed in Section 5.9.
- (5) Development tracts of between ten (10) and twenty (20) acres can meet the Mixed Use Threshold in the following manner. If development of property in a Mixed Use-OI-1 zone is proposed, and the proposal meets all the following thresholds, then the set of permitted use and intensity regulations described in subsection (3) shall apply. Those thresholds are:
- A. Development is proposed on tracts of size between ten (10) and twenty (20) contiguous acres (may include parcels on both sides of a public street if at least five acres of the total are located on both sides of the street).
 - B. The proposed development tract is adjacent to, or across a public street from, a Mixed Use Development that has been approved by the Town Council in accordance with the provisions of this Article.
 - C. The proposed uses, circulation patterns and buffers are demonstrated to be compatible with the adjacent approved Mixed Use Development. In addition, landscape treatments and architecture shall be demonstrated to be compatible with the adjacent approved Mixed Use Development to the

extent such landscape treatments and architecture have been specified in the adjacent Special Use Permit approved by the Town Council.

- D. Uses for the proposed tract are proposed in one of the following combinations:
- Office, Commercial, and Residential Uses,
 - Office and Commercial uses, or
 - Office and Residential uses.
- E. At least 60% of the proposal's floor area shall be devoted to "business, office-type" uses, as defined in this Land Use Management Ordinance.
- F. No more than 85% of the proposal's floor area shall be devoted to "business, office-type" uses.

(f) Permitted Uses and Development Intensities - Mixed Use-R-1

- (1) Permitted Uses and Intensities. The uses permitted in the Mixed Use-R-1 Zone, except in situations described in subsection (2) below, are single-family dwellings, and those other non-residential uses listed in Section 3.7 as permitted in the R-1 zone. The land use intensity ratios, setbacks, and height limitations that apply in the Mixed Use Zone, except in situations described in subsection (2) below, are those that apply to the R-1 zone, as set forth in Section 3.8.
- (2) Mixed Use Threshold. If development of property in a Mixed Use-R-1 Zone is proposed, and the proposal meets all of the following thresholds, then the set of permitted use and intensity regulations described in subsection (3) shall apply. Those thresholds are:
- A. Minimum lot size of 20 contiguous acres (may include parcels on both sides of a street).
- B. Uses proposed in one of the following combinations:
- Office, Commercial, and Residential uses
 - Office and Commercial uses
 - Office and Residential uses
- C. At least 60% of floor area devoted to "business, office-type" uses, as defined in this Land Use Management Ordinance.
- D. No more than 85% of floor area devoted to "business, office-type" uses.
- (3) Mixed Use Development Intensity and Use Regulations. If a development proposal in a Mixed Use-R-1 District meets all of the thresholds listed in subsection (2), then the following use and intensity regulations shall apply:

- A. For commercial floor area, permitted uses shall be those listed in Section 3.7, as permitted uses in the Community Commercial District, except as noted in paragraph D, below.
- B. For residential floor area, permitted uses shall be those listed in Section 3.7 as permitted uses in the R-5 District, except that in addition multifamily development of more than 7 units shall be permitted.
- C. For office floor area, permitted uses shall be those listed in Section 3.7 as permitted uses in the OI-1 District.
- D. The following uses are not permitted in the Mixed Use Zone:
 - Automotive Repair
 - Automotive, Trailer, and Farm Implement Sales or Rental
 - Kennel
 - Supply Yard
 - Veterinary Hospital
- E. Dimensional Standards shall be those listed in Section 3.8, in a Community Commercial (CC) Zone.
- F. For the portions of a site devoted to residential development, the density limitations described in Section 3.8 for the R-5 zone shall apply.
- G. Minimum Setbacks from the perimeter boundary of the specified development tract shall be as follows:
 - Street: 50 feet
 - Interior: 50 feet
 - Immediately Adjacent to Residential Use or Residentially Zoned Property: 50 feet
- H. Minimum Setbacks internal to the specified development tract shall be as follows:
 - Street: 0 feet
 - Interior: 0 feet
- I. The Minimum Setback for any parking area from the perimeter boundary of the specified development tract shall be 75 feet from the street.
- J. Maximum Height Limits shall be as follows:
 - Primary: 29 feet
 - Secondary: 90 feet

- K. Type "C" buffers shall be required around all perimeters of the development tract, except in circumstances where a higher level of buffer is required. A Type "D" buffer with a minimum width of 50 feet shall be required adjacent to a non-interstate arterial street.
- (4) Mixed Use Development Design Standards. All design standards specified in Article 5 of this Chapter and in the Town's Design Guidelines in effect at the time a proposal is being reviewed shall apply to the design of development proposed as a mixed use development as defined by this Article with the following special provisions:
- A. Site Analysis: Any application for mixed use development shall include a site evaluation analysis which identifies the physical character and structure of the site. Elements of the site to be investigated include topography, slope conditions, soil characteristics and subsurface constraints, drainage patterns, vegetation, and other existing conditions.
 - B. Outparcels: Outparcels are hereby defined as development or parcels of land generally located at the perimeter boundary of a mixed use development and physically separated from the remainder of the development. All plans for outparcels within a mixed use development proposal shall include a set of design criteria for the outparcel(s). These design criteria shall be prepared to maintain visual compatibility and overall design compatibility with the entire development. The criteria shall address the location, form, scale, materials and colors of structures as they relate to the design concept of the entire development, and shall be consistent with the Design Guidelines.
 - C. Off-street parking requirements shall be 80% of the minimum requirements listed in Section 5.9.
- (5) Additions to Approved Mixed Use Developments. Development tracts of between ten (10) and twenty (20) acres can meet the Mixed Use Threshold in the following manner. If development of property in a Mixed Use-R-1 zone is proposed, and the proposal meets all the following thresholds, then the set of permitted use and intensity regulations described in subsection (3) shall apply. Those thresholds are:
- A. Development is proposed on tracts of size between ten (10) and twenty (20) contiguous acres (may include parcels on both sides of a public street if at least five acres of the total are located on both sides of the street).
 - B. The proposed development tract is adjacent to, or across a public street from, a Mixed Use Development that has been approved by the Town Council in accordance with the provisions of this Article and Section 4.8.

- C. The proposed uses, circulation patterns and buffers are demonstrated to be compatible with the adjacent approved Mixed Use Development. In addition, landscape treatments and architecture shall be demonstrated to be compatible with the adjacent approved Mixed Use Development to the extent such landscape treatments and architecture have been specified in the adjacent Special Use Permit approved by the Town Council.
- D. Uses for the proposed tract are proposed in one of the following combinations:
 - Office, Commercial, and Residential Uses,
 - Office and Commercial uses, or
 - Office and Residential uses.
- E. At least 60% of the proposal's floor area shall be devoted to "business, office-type" uses, as defined in this Land Use Management Ordinance.
- F. No more than 85% of the proposal's floor area shall be devoted to "business, office-type" uses.

(g) Review and Approval Procedure

Review and approval procedures specified in Section 4.5 shall apply to applications for development approval in a Mixed Use Zoning District. All development proposed under the conditions specified in subsections (b)(1), (d)(2), (d)(3), (e)(2), and (e)(3) shall be considered to be Special Uses.

3.5.2 Office/Institutional – 4 District (OI-4)

(a) Purpose and Intent

The purpose and intent of the Office/Institutional-4 District (OI-4) is to establish procedural and substantive standards for the Town Council's review and approval of development on large tracts of land where the predominant use is to be college, university, hospital, clinics, public cultural facilities, and related functions.

The objective of this Section and the OI-4 district is to allow for growth and development while protecting the larger community, nearby neighborhoods, and the environment from impacts accompanying major new development. A key feature of this district is the preparation of a Development Plan that would allow the property owner, immediate neighbors, and the larger community to understand specifically what levels of development are being proposed, and what impacts would likely accompany the development, so that mitigation measures can be designed and implemented.

(b) Overview of Development Review Procedures

Procedures in this zoning district are designed to facilitate:

- Articulation of development plans that involve multiple buildings in multiple locations over an extended time period on a given tract of land, as defined in a Development Plan;
- Identification of total infrastructure needs for such proposed development as specified in a Development Plan and cumulative impacts resulting from full development as specified in a Development Plan; and
- Provision of measures to mitigate the negative impacts, including off-site construction of parking decks as described in subsection (d)(2), phased in a manner appropriate with the pace of construction.

To this end, owners of property zoned OI-4 are encouraged to prepare detailed Development Plans, as described below, for review and approval by the Town Council. For buildings that are included in an approved Development Plan, Site Development Permits for individual buildings are to be issued by the Town Manager, following a determination by the Town Manager that such individual building plans are generally consistent with the Town Council-approved Development Plan.

For development proposed within an OI-4 zoning district that is not included in a Town Council-approved Development Plan, but is a minor change according to the provisions of subsection (i) of this Section, the Town Manager may approve a change to the Development Plan and issue a Site Development Permit. For development proposed within an OI-4 zoning district that is not included in a Town Council-approved Development Plan and that cannot be considered a minor change to the Plan according to subsection (i) of this Section, such development shall be considered to be a Special Use, and subject to the Special Use Permit procedural requirements of Section 4.5 of this Chapter. In the alternative, the applicant may apply to the Town Council for an amendment to the Development Plan.

Once a property is zoned Office/Institutional-4, all regulations, standards, and procedures prescribed for the previously-applicable zoning district shall apply until (1) a Development Plan is approved; or (2) six months have elapsed, whichever comes first.

(c) Concept Plan Review

Prior to submittal of a Development Plan or Modification of Development Plan, a Concept Plan Review shall be conducted by the Town Council. It is the intent of the Conceptual Development Plan process to provide an opportunity for the Town Council, Town Manager and citizens to review and evaluate the impact of the proposed development on the character of the area in which it is proposed to be located.

- (1) **Submittal Requirements.** Applications for Conceptual Development Plan review shall be filed with the Town Manager. The Town Manager shall prescribe the form(s) on which information shall be submitted. Application submittal requirements shall include the following:
 - A. Descriptions of proposed development with building locations, building sizes, parking arrangements, and description of building heights with consideration of impact on adjacent areas.

(d) Development Plan

A Development Plan shall address issues such as general location and size of new facilities, parking, utilities, stormwater management, impervious surface, and access/circulation. A Development Plan shall identify the general location, size, and proposed uses of buildings. A Development Plan shall project anticipated impacts on streets, water and sewer facilities, stormwater runoff, air quality, noise, and lighting.

(1) Submittal Requirements. Application submittal requirements shall include the following:

- A. Specific descriptions of proposed development with building locations, building sizes, parking arrangements, and description of building heights with consideration of impact on adjacent areas.
- B. Analysis of impacts resulting from proposed development, along with options to mitigate impacts relating to:
 - Transportation Management (traffic, transit, parking, bikes, pedestrians, air quality);
 - Stormwater Management Analysis (quantity and quality); and
 - Noise and Lighting Analysis.

Individual effects must be evaluated in the context of the whole Development Plan and not in isolation. Impacts shall be evaluated in accordance with guidelines endorsed for use by the Town Council.

C. Preliminary timetable and sequencing schedule for building construction and for related mitigation measures.

(2) Off-site Components. Mitigation measures involving construction of parking decks may need to be developed outside the boundaries of the Development Plan. Notwithstanding any other provision of this Land Use Management Ordinance, a parking deck proposed to mitigate impacts of a Development Plan, and approved by the Town Council as part of a Development Plan, may be located on a site not within the boundaries of an OI-4 zoning district. Any such facility shall be reviewed as a Site Development Permit according to the provisions of subsection (i) (2) of this Section.

(e) Permitted Uses and Development Intensities

Permitted uses shall be identical with uses listed in the Use Matrix (Section 3.7) as being permitted in OI-3, except that Place of Assembly shall be considered to be a permitted use and not a special use. The maximum floor area allowed shall be as provided in a Development Plan that is approved by the Town Council. Special restrictions apply in Perimeter Transition Areas (see subsection (g)).

For purposes of calculating compliance with a specified maximum floor area, the following land uses shall not be counted as floor area: new residential development (including Dwellings and Residence Halls), and new Public Cultural Facilities.

(f) Standards

Development in the OI-4 zoning district shall be designed in a manner that provides a mix of uses which are integrated, interrelated and linked by pedestrian ways, bikeways, and other transportation systems. Development Plans shall, as practical and consistent with applicable laws and regulations, include measures to encourage reduction of automobile use and promote alternative modes of transportation; to mitigate adverse environmental impacts; to promote conservation of non-renewable energy resources; and to achieve visual continuity in the siting and scale of buildings. Specifically, a Development Plan shall address the following:

- (1) Noise: Noise levels from development proposed in the Development Plan shall not exceed those allowed by the Town of Chapel Hill Noise Ordinance.
- (2) Environment: Development proposed in the Development Plan shall minimize impacts on natural site features, and be accompanied by measures to mitigate those impacts.
- (3) Transportation: Development proposed in the Development Plan shall be accompanied by measures to mitigate transportation impacts that are caused by the development.
- (4) Stormwater Management: Development proposed in the Development Plan shall be accompanied by measures to mitigate stormwater impacts (quantity and quality) that are caused by the development.
- (5) Public Utilities: There shall be a general demonstration that water, sewer, and other needed utilities can be made available to accommodate development proposed in the Development Plan.
- (6) Historic Districts: The provisions of Section 3.6.2 of this Chapter shall apply to any development proposed within one of Chapel Hill's Historic Districts.

(g) Perimeter Transition Areas

A Development Plan shall designate a Perimeter Transition Area establishing appropriate standards at borders of the Development Plan, necessary to minimize impacts of development proposed in the Development Plan on adjacent property, to be approved by the Town Council as part of the Development Plan. Standards shall address:

- (1) Screening mechanical equipment
- (2) Exterior lighting
- (3) Height limits
- (4) Landscaping

(h) Procedures for Approval of Development Plans

Applications for a Development Plan, Special Use Permit, or Site Development Permit shall be filed with the Town Manager.

- (1) Application Submittal Requirements. The Town Manager shall prescribe the form(s) of applications as well as any other material he/she may reasonably require to determine compliance with this Section. Applications shall include information described in subsection (d) (1).
- (2) Process for Review.
 - A. Applications for Development Plan approval shall be reviewed by the Planning Board and forwarded to the Town Council for consideration at a public hearing. The Planning Board shall review the application and the Town Manager's report and shall submit to the Town Council a written recommendation based on the findings required in subsection (h)(3). The Planning Board shall prepare its recommendation within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to it or within such further time consented to in writing by the applicant or by Town Council resolution. If the Planning Board fails to prepare its recommendation to the Town Council within this time limit, or extensions thereof, the Planning Board shall be deemed to recommend approval of the application without conditions.
 - B. Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.
 - C. The Public Hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Town Council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses to avoid undue delay. All persons who intend to present evidence at the public hearing shall be sworn.
 - D. The applicant shall bear the burden of presenting evidence sufficient to establish persuasively that the proposed development will comply with the determinations required in subsection (h)(3).
 - E. A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing. Town Council action on an application for Development Plan approval shall occur within 120 days of the date of submittal of a complete application.

(3) Town Council Action.

A. The Town Council shall approve a Development Plan unless it finds that the proposed development would not:

- Maintain the public health, safety, and general welfare; or
- Maintain the value of adjacent property; or
- Comply with all required regulations and standards of this Chapter, including all applicable provisions of Article 2 and with all other applicable regulations; or
- Conform with the general plans for the physical development of the Town as embodied in this Chapter and in the Comprehensive Plan.

B. Town Council action shall be to:

- Approve;
- Approve with conditions; or
- Deny.

(i) ***Actions After Decision on Development Plan***

(1) Recording Approval. If the application for approval of a Development Plan is approved or approved with conditions, the Town Manager shall issue the approval in accord with the action of the Town Council. The applicant shall record such approval in the office of the County Register of Deeds. The Development Plan, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

(2) Individual Site Development Permits. If the Development Plan is approved, or approved with conditions, the Town Manager may then accept applications for individual Site Development Permits for specific buildings that are described in the Development Plan. No work on a building identified on the Development Plan may begin until a Site Development Permit has been issued. The Town Manager shall prescribe the form(s) of applications as well as any other material he/she may reasonably require to determine compliance with the Development Plan. Any application for a Site Development Permit in a Perimeter Transition Area shall include provisions for mailed notification to property owners within 1,000 feet of the proposed development. If the Town Manager finds that the application is consistent with the Development Plan, he/she shall approve the application and issue the Site Development Permit within 15 working days of the submittal of a complete application. If the Town Manager finds that the application is not consistent with the Development Plan he/she shall deny the application within 15 working days of the acceptance of the application and refer the applicant to the Special Use Permit process described in Section 4.5 of this Chapter. Alternatively, the applicant may apply for an amendment to the Development Plan.

- (3) Expiration, Abandonment, Revocation of Development Plan. If an application for a Site Development Permit pursuant to an approved Development Plan has not been submitted to the Town Manager within two (2) years of the date of approval of the Development Plan, the approval shall automatically expire. On request by the holder of an approved Development Plan, the Town Council shall approve the abandonment of the Plan if it determines that no subsequent development approvals have been granted and no construction activity has taken place pursuant to the Development Plan. If material conditions of a Development Plan are violated, and remain in violation after giving the property owner a reasonable amount of time to correct such violation, the Town Council may revoke the Plan after notification to the property owner and opportunity for property owner response at a public meeting of the Town Council.

(j) Process for Amending Development Plan

The Town Manager is authorized to approve minor changes and changes in the ordering of phases in an approved Development Plan, as long as such changes continue to be in compliance with the approving action of the Town Council and all other applicable requirements, and result in a configuration of buildings that is generally consistent with the approved Development Plan. The Town Manager shall not have the authority to approve changes that constitute a modification of the Development Plan.

Before making a determination as to whether a proposed action is a minor change or a modification, the Town Manager shall review the record of the proceedings on the original application for the Development Plan and any subsequent applications for modifications of the Development Plan, and shall use the following criteria in making a determination:

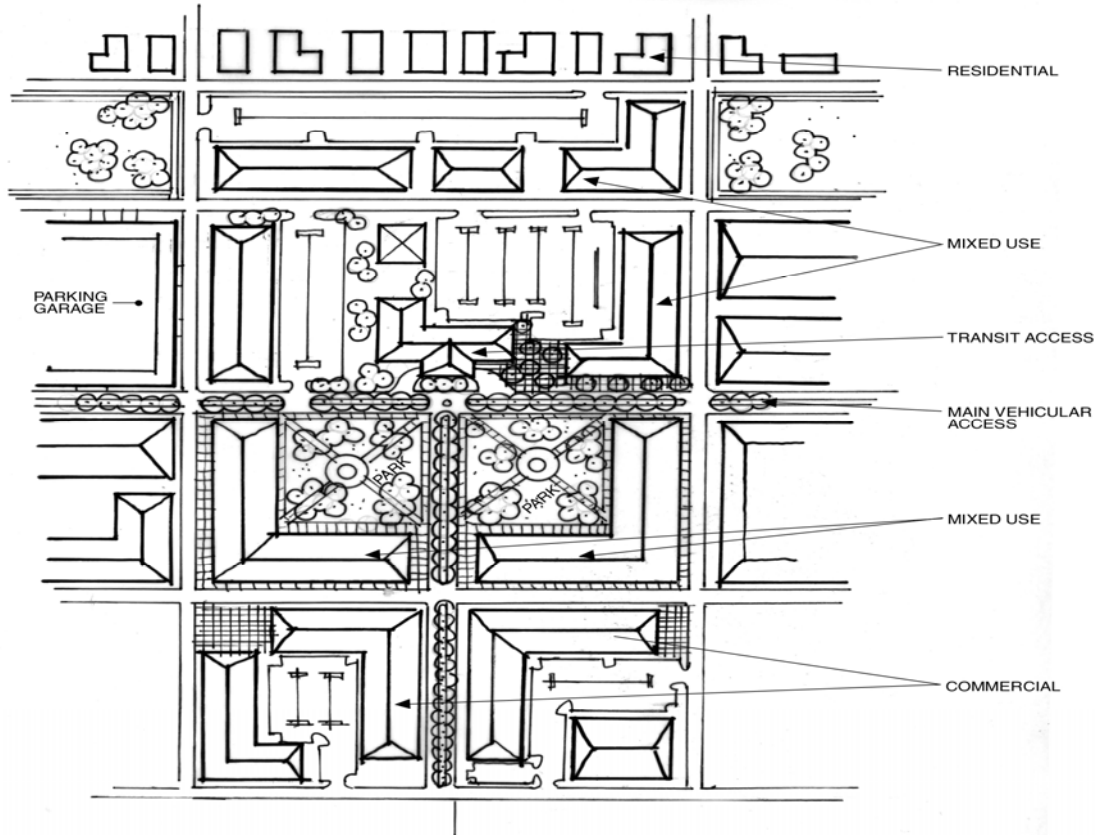
- (1) A change in the boundaries of the Development Plan approved by the Town Council shall constitute a modification;
- (2) A substantial change in the floor area or number of parking spaces approved by the Town Council shall constitute a modification. (General rule: more than a 5% increase in overall net new floor area or parking in a Development Plan approved by the Town Council would be considered substantial.);
- (3) Substantial changes in pedestrian or vehicular access or circulation approved by the Town Council shall constitute a modification. (General rule: changes that would affect access or circulation beyond the boundaries of a Development Plan would be considered substantial.); and
- (4) Substantial change in the amount or location of open areas approved by the Town Council shall constitute a modification.

If the proposed action is determined to be a modification, the Town Manager shall require the filing of an application for approval of the modification, following procedures outlined in this Section for initial approval of a Development Plan.

3.5.3 Traditional Neighborhood Development District

[RESERVED]

3.5.4 Transit Oriented Development District



Purpose Statement: The Transit Oriented Development District encourages a mixture of residential, commercial, and employment opportunities within identified light rail station or other high capacity transit areas. The district allows for a more intense and efficient use of land at increased densities for the mutual reinforcement of public investments and private development. Uses and development are regulated to create a more intense built-up environment, oriented to pedestrians and bicycles, to provide a density and intensity that is transit supportive. The development standards of the zone also are designed to encourage a safe and pleasant pedestrian and bicycle environment near transit stations by encouraging an intensive area of shops and activities, by encouraging amenities such as benches, kiosks, and outdoor cafes, and by limiting conflicts between vehicles and pedestrians and bicycles. It is the intent of this Section that a TOD district be restricted to areas within one-half (1/2) of a mile of a transit station, which area is equivalent to a typical 10-minute walking distance.

Because most transit users will walk only one-quarter to one-half of a mile to a transit facility, transit influence areas require high densities on small areas of land. The Town therefore finds and determines that uses inconsistent with transit will undermine the most efficient use of limited land areas within a TOD, and may render the transit system unworkable. Accordingly, the uses permitted within the Core (TOD-C) and Perimeter (TOD-P) zoning districts are those which are dependent upon, or which may generate, a relatively high level of transit usage. Uses which would interfere with transit usage and which generate few transit trips are not permitted.

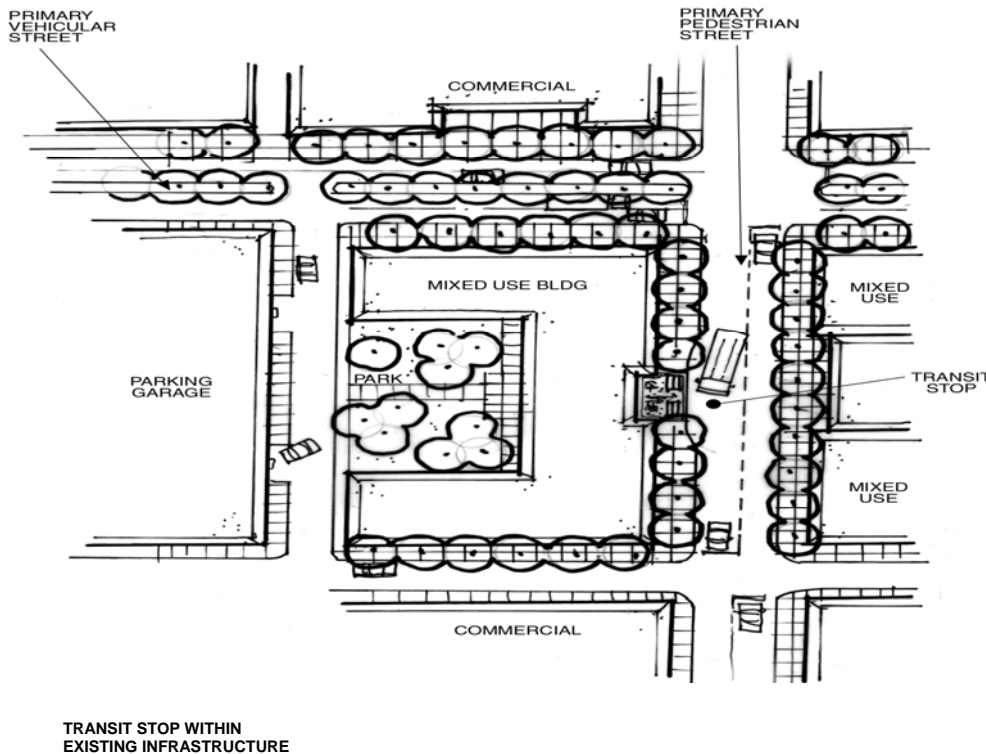
(a) Designation Procedures

A Transit Oriented Development may be designated pursuant to the procedures established in Section 4.4 of this Chapter.

(b) Designation Criteria

To be designated a Transit Oriented Development District, the area must meet the following criteria:

- (1) At least 50% of the territory within a TOD must lie within one-quarter ($\frac{1}{4}$) of a mile of a Transit Station or Major Bus Boarding Location, and shall be classified as Transit Oriented Development – Core (“TOD-C”).
- (2) Areas between one-quarter ($\frac{1}{4}$) of a mile and one-half ($\frac{1}{2}$) of a mile from a Transit Station or a Major Bus Boarding Location may be classified as Transit Oriented Development-Perimeter (“TOD-P”). No land area shall be zoned “TOD-P” unless it adjoins an area zoned “TOD-C.”



(c) Uses & Dimensional Standards

The TOD District shall establish minimum levels of density and intensity required to support transit ridership, and prohibit lower levels of density which will not support transit ridership and will create unacceptable levels of vehicular congestion.

The TOD District shall establish permitted, special and prohibited uses. Land uses which are not supportive of public transportation in that they tend to not generate transit ridership, and which require access primarily by automobile, shall be prohibited.

(d) Development Standards

The ordinance designating the TOD shall include standards governing landscaping, lot layout, buffers, setbacks, parks and open space, parking, transportation, and urban design. The ordinance shall establish maximum setbacks and maximum parking requirements which support transit usage.

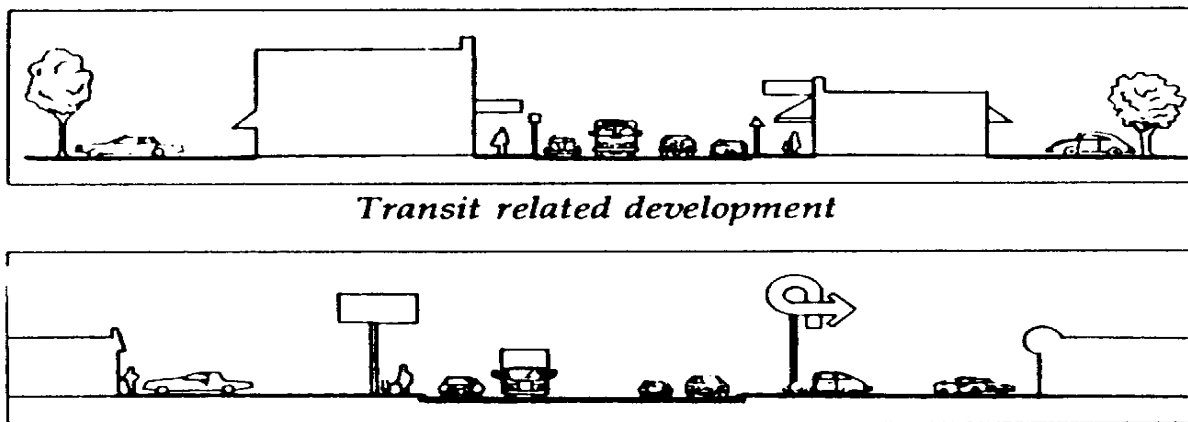


Figure 1: Setbacks which support (top) and do not support (bottom) transit usage

Example: Buildings within a TOD district feature small front setbacks in order to provide efficient pedestrian and bicycle movement (top graphic). Buildings in conventional commercial strips do not support transit usage because pedestrians are separated from buildings by parking lots and wide setbacks (bottom graphic).

(Source: USDOT, A Guide to Land Use and Public Transportation (Dec. 1989))

3.6 Overlay Districts

Purpose Statement: *It is the intent of this Section to provide for an Airport Hazard District, Historic Districts, Neighborhood Conservation Districts, Resource Conservation District, and Watershed Protection District, which shall overlay the zoning districts enumerated in Sections 3.3 through 3.5 above, and which shall provide for special review of development within such overlay districts in accord with the intents, procedures, and standards established for the districts in this Article.*

3.6.1 Airport Hazard District

(a) Intent

The Airport Hazard district is intended to be applied to the approaches to runways of airports or landing fields within the Town's planning jurisdiction in order to minimize danger to lives and property of users of the airport and of occupants in its vicinity.

(b) Establishment of Airport Hazard District

The Airport Hazard (AH) district is hereby established. The boundaries of the Airport Hazard district are as shown on the official Zoning Atlas.

(c) Modified Dimensional Regulations

Irrespective of the density or intensity regulations generally applicable to the underlying zoning district, the development of any land or structure within the Airport Hazard district shall comply with the following modified gross land area requirement and dimensional regulations for all uses within the district:

- (1) Minimum Gross Land Area: 500,000 square feet
- (2) Maximum Floor Area Ratio: 0.018.

Application of these regulations shall be as established in Section 3.8 of this Chapter.

3.6.2 Historic Districts

Purpose Statement: *The Historic District is intended to protect and conserve the heritage and character of the Chapel Hill community by providing for the preservation of designated areas within the planning jurisdiction, including individual properties therein that embody important elements of social, economic, political, or architectural history, and by promoting the stabilization and enhancement of property values throughout such areas. The purpose of requiring regulation of placement and design of telecommunications equipment in this district is to help achieve these objectives and to protect the special character of the Historic District.*

It is intended that these regulations ensure, insofar as possible, that buildings or structures in the Historic District shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings, or to prohibit the demolition or removal of such buildings, or to impose architectural styles from particular historic periods, but rather to encourage design, whether contemporary or traditional, which is harmonious with the character of the Historic District.

(a) Establishment of Historic District

- (1) The Historic District is hereby established as a district which overlays other zoning districts established in Sections 3.3 – 3.5. The boundaries of the Historic District are as shown on the official Zoning Atlas.
- (2) No new historic district or any change to the boundaries of any existing historic district shall be designated until the North Carolina Department of Cultural Resources, or its successor agency, shall have been given an opportunity, in accord with Chapter 160A, Article 19, Part 3C of the N.C. General Statutes, or its successor statutes, to make recommendations with respect to the establishment of such new district or change in the boundaries of an existing district.

- (3) The use and development of any land or structure within the Historic District shall comply with use regulations and intensity regulations applicable to the Use District in which it is located.

(b) Certificate of Appropriateness Required

- (1) No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), or any aboveground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the Historic District until an application for a Certificate of Appropriateness as to exterior architectural features has been approved. For purposes of this Article, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs.
- (2) A Certificate of Appropriateness shall be issued prior to the issuance of a Zoning Compliance Permit or any other permit granted for purposes of constructing, altering, or demolishing buildings or structures. A Certificate of Appropriateness shall be required whether or not a Zoning Compliance Permit is required. Any Zoning Compliance permit or other permit not issued in conformity with this Section shall be invalid.
- (3) The Town and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, owned or franchised by the Town of Chapel Hill or public utility companies, excluding regulatory signs, other traffic control measures and devices, and utility distribution systems located in public right-of-way.
- (4) A Certificate of Appropriateness application may be reviewed and approved by the Town Manager according to specific review criteria contained in State law and guidelines approved by the Commission when the application is determined to involve minor work. Minor works are defined as those exterior changes that do not involve any substantial alterations, and do not involve additions or removals that could impair the integrity of the property and/or the district as a whole. Such minor works shall be limited to those listed in the Commission's Rules of Procedure, or a successor document. No application involving a minor work may be denied without the formal action of the Commission. Ordinance requirements for notification of affected property owners must be met for all applications.

(c) Certain Changes Not Prohibited

- (1) Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District that does not involve a change in design, material, or outer appearance thereof, or to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature that the Building Inspector or similar official shall certify is required by the public safety because of unsafe or dangerous condition.
- (2) On the basis of preliminary sketches or drawings and other supporting data, the Town Manager may exempt from requirements for a Certificate of Appropriateness projects involving the ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, material, or outer appearance thereof. The Town Manager shall notify the Commission of all such exemptions.

(d) Procedures for Approval of Certificates of Appropriateness

- (1) Application Submittal Requirements
 - A. Applications for Certificates of Appropriateness shall be filed with the Town Manager.
 - B. The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine the nature of the application.
 - C. The Commission may specify criteria for situations in which the Town Manager may waive any of the application material requirements.
 - D. No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.
- (2) Notification of Affected Property Owners. Prior to approval or denial of an application for a Certificate of Appropriateness by the Historic District Commission, the Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.
- (3) Public Hearing. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.
- (4) Action on the Application. Within one-hundred eighty (180) 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 Commission shall approve

the application, approve the application with conditions, or deny the application. Such action shall be based upon the review criteria established in Section 3.6.2 of this Article. Failure to take final action on an application within the prescribed time limit, or extensions thereof, shall result in approval of the application as submitted. The Town Manager or the Commission may impose such reasonable conditions on the approval of an application as will ensure that the spirit and intent of this Article are achieved. An application for a Certificate of Appropriateness authorizing the demolition of a building or structure within the Historic District may not be denied. However, the effective date of such a certificate may be delayed for up to three hundred and sixty-five (365) days from the date of approval. The maximum period of delay authorized by this Section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the Commission finds that the building has no particular significance or value toward maintaining the character of the Historic District, it shall waive all or part of such period and authorize earlier demolition or removal. In every case, the record of the Commission's action shall include the reasons for its action.

- (5) **Actions Subsequent to Decision.** The Town Manager shall notify the applicant of a decision in writing, and shall file a copy of it with the Town's Planning Department. If the application is denied, the notice shall include the reasons for such action.
- (6) **Appeal of Decision.** A decision by the Commission on an application for a Certificate of Appropriateness may be appealed to the Board of Adjustment in accordance with the provisions of Section 4.10.
- (7) **Submittal of New Application.** If the Commission denies an application for a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

(e) Review Criteria

- (1) In considering an application for a Certificate of Appropriateness, the review shall take into account the historical and/or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure.
- (2) The review shall not consider interior arrangement or use.
- (3) The Commission, using the criteria below, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the Historic District.

- (4) The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness:
 - A. The height of the building in relation to the average height of the nearest adjacent and opposite buildings.
 - B. The setback and placement on lot of the building in relation to the average setback and placement of the nearest adjacent and opposite buildings.
 - C. Exterior construction materials, including texture and pattern.
 - D. Architectural detailing, such as lintels, cornices, brick bond, and foundation materials.
 - E. Roof shapes, forms, and materials.
 - F. Proportion, shape, positioning and location, pattern, and size of any elements of fenestration.
 - G. General form and proportions of buildings and structures.
 - H. Appurtenant fixtures and other features such as lighting.
 - I. Structural conditions and soundness.
 - J. Architectural scale.

(f) Prevention of Demolition by Neglect

- (1) The purpose of this ordinance is to protect Chapel Hill's historic architectural resources by intervening when a significant resource is undergoing demolition by neglect.

Demolition by neglect is defined as a situation in which a property owner, or others having legal possession, custody or control of a property, allow the condition of property located in a Historic District to suffer such deterioration, potentially beyond the point of repair, as to threaten the structural integrity of the structure or its relevant architectural detail to a degree that the structure and its character may potentially be lost to current and future generations.

- (2) Control of Demolition by Neglect of Structures within Designated Historic Districts
 - A. In order to promote the purposes of historic preservation, this subsection requires that owners of historic properties maintain their properties and not allow them to fall into disrepair. The requirements of this subsection are applicable only to properties in the Historic Districts of Chapel Hill.

B. Conditions of Neglect Defined and Prohibited

Owners or others having legal possession, custody or control of a property in Historic Districts shall maintain or cause to be maintained the exterior and structural features of their properties and not allow conditions of neglect to occur on such properties. It is a violation of the Town's Land Use Management Ordinance to not remedy a condition of neglect within the period of time set by a final administrative determination, as described in Section (C), below.

Conditions of neglect include, but are not limited to, the following:

1. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
2. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
3. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
4. Deterioration or crumbling of exterior plasters or mortars.
5. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
6. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
7. Rotting, holes, and other forms of decay.
8. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
9. Deterioration that has a detrimental effect on the surrounding historic district.
10. Deterioration that contributes to a hazardous or unsafe condition.
11. Deterioration of fences, gates, and accessory structures.

C. Procedure for Enforcement

Enforcement of these provisions shall be undertaken as described in Section 4.13 of the Land Use Management Ordinance (“Violations and Penalties”), with the following additional components:

1. Upon receipt of a complaint or upon observation, if the Town Manager makes a preliminary determination that a property in a Historic District is being neglected, as defined in Section 3.6.2(f)(2)B, the Manager shall inform the property owner of the preliminary determination and notify the Historic District Commission of the preliminary determination. The Town Manager will seek remedial action by the property owner.
2. If remedial action has not commenced within 30 days of initial notification, the Town Manager, after consultation with the Historic District Commission, shall make a finding of violation of the Land Use Management Ordinance. Procedures outlined in Section 4.12 shall be followed, including notification of right to and process for appeal as described in Section 4.13.

(3) Safeguards for Undue Economic Hardship

Upon notification from the Town Manager of required remedial action, the property owner may by written request claim undue economic hardship.

If a claim of undue economic hardship is made owing to the effects of this article, the Town Manager shall notify the Historic District Commission within five (5) business days following the receipt of the written request for a determination of undue hardship. The Commission shall at its next regular meeting, schedule a hearing on the request within the limitations of its procedures for application deadlines.

The petitioner shall present the information provided under subsection (A) below to the Commission at or prior to the hearing. The Commission may require that an owner and/or parties in interest furnish such additional information as the Commission may reasonably conclude is relevant to its determination of undue economic hardship, and may, in its sole discretion, hold the hearing open and allow the owner or party in interest a reasonable period of time (to be established by the Commission) to furnish the requested additional information. The Commission may request the staff to furnish additional information, as the Commission believes is relevant. The Commission shall also state which form of financial proof it deems relevant and necessary to a particular case.

In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reason why such information cannot be obtained.

- A. When a claim of undue economic hardship is made owing to the effects of this article, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship. The minimum evidence shall include for all property:
1. Nature of ownership (individual, business, or nonprofit) or legal possession, custody, and control.
 2. Financial resources of the owner and/or parties in interest.
 3. Cost of repairs.
 4. Assessed value of the land and improvements.
 5. Real estate taxes for the previous two (2) years.
 6. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
 7. Annual debt service, if any, for previous two (2) years received.
 8. Any listing of the property for sale or rent, price asked, and offers received, if any.
- In addition, for income-producing property:
9. Annual gross income from the property for the previous two (2) years.
 10. Itemized operating and maintenance expenses for the previous two years.
 11. Annual cash flow, if any, for the previous two (2) years.
- B. Within sixty (60) days of the Commission's hearing on the claim, the Commission shall make a determination of undue or no undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the Commission shall report such finding to the Town Manager, and the Town Manager shall cause to be issued an order for such property to be repaired within the time specified.
- C. In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under North Carolina law, loans or grants from the Town, the County, or other public, private, or nonprofit sources, acquisition by purchase or eminent domain, building code modifications, changes in

applicable zoning regulations, or relaxation of the provisions of this article sufficient to mitigate the undue economic hardship. The Commission shall report such finding and plan to the Town Manager. The Town Manager shall cause to be issued an order for such property to be repaired within the time specified, and according to the provisions of the recommended plan.

(4) Appeals

Decisions under this Section made by the Historic District Commission may be appealed to the Board of Adjustment on the record in accordance with the procedures described in Section 4.10.

(5) Stay of Proceedings

Issuance of an approved Certificate of Appropriateness for improvements, accompanied by actions to bring the property into compliance with this Section, will stay an enforcement proceeding seeking compliance with this Section for said property.

(6) Other Town Powers

Nothing contained within this article shall diminish the Town's power to declare an unsafe building or a violation of the minimum housing code.

3.6.3 Resource Conservation District

The Resource Conservation District (herein sometimes RCD) is intended to be applied to the areas within and along watercourses within the Town's planning jurisdiction in order to preserve the water quality of the Town's actual or potential water supply sources, to minimize danger to lives and properties from flooding in and near the watercourses to preserve the water-carrying capacity of the watercourses, and to protect them from erosion and sedimentation, to retain open spaces and greenways and to protect their environmentally-sensitive character, to preserve urban wildlife and plant life habitats from the intrusions of urbanization, to provide air and noise buffers to ameliorate the effects of development, and to preserve and maintain the aesthetic qualities and appearance of the Town.

(a) Definitions and Rules of Interpretation

In the interpretation and application of this Article, all provisions shall be: (a) considered as minimum requirements, (b) strictly construed in favor of the public interest and community benefit, and (c) deemed neither to limit nor repeal any other powers provided by Town ordinance or State statute. The following terms and phrases, among others, shall have specific meanings for purposes of this Section, and are defined in Appendix A:

Ditch or Canal
Ephemeral Stream
Intermittent Stream

Land Disturbance
Modified Natural Stream
Obligate and Facultative Wetland Vegetation
Perennial Stream
Perennial Water Body
Riparian Buffer
Stream
Stream Bank
Stream Corridor

Streams subject to the provisions of this Article and Article 3.6.4 include those shown on the Town's Geographic Information System (GIS) coverage, the most recent version of the US Geological Survey 1:24,000 scale (7.5 minute) topographic map, or the soils map in the US Department of Agriculture Orange County Soil Survey and shall be subject to field verification by the Town of Chapel Hill Engineering Department. The most current versions of the following documents shall be used to classify streams within the Planning Jurisdiction of the Town of Chapel Hill: (1) North Carolina Division of Water Quality "Stream Classification Form and Internal Guidance Manual" and (2) Town of Chapel Hill "Field Procedures for Classification of Streams".

(b) Establishment of Resource Conservation District

The Resource Conservation District (RCD) is hereby established as a district that overlays other zoning districts established in Article 3. The Resource Conservation District shall consist of:

- (1) Land within stream corridors as established in Section 3.6.3(c), and
- (2) Land with vertical elevation at or below the Resource Conservation District elevation as established in Section 3.6.3(d).

The Resource Conservation District does not apply to areas exempt from this Section as further described in subsection Section 3.6.3(i), below.

(c) Resource Conservation District Stream Corridors

The corridors in Table 3.6.3-1 are hereby established as part of the Resource Conservation District. These distances shall be measured as the horizontal, linear distance from the stream bank. There shall be three zones to stream corridors, with dimensions as shown in Table 3.6.3-1.

Table 3.6.3-1: Definition of Stream Corridor Zones

Type of Stream or Water Body	Corridor Zone		
	Stream Side	Managed Use	Upland
Perennial Stream	50' from Stream Bank	50' from Stream Side Zone	50' from Managed Use Zone *
Intermittent Stream	50' from Stream Bank	None Required	None Required
Perennial Water Body	50' from Stream Bank	None Required	None Required

For purposes of Table 3.6.3-1, an asterisk (*) means “Or out to the point of Resource Conservation District Elevation, whichever is greater.”

The presence of an Ephemeral Stream as defined in [Appendix A](#) does not place the underlying and nearby land within the Resource Conservation District. Restrictions associated with Ephemeral Streams are contained in Section [5.4](#).

For single-family or two-family development on lots that were lawfully established prior to January 27, 2003 (or those lots identified on a Preliminary Plat approved by the Town Council prior to January 27, 2003), the Resource Conservation District Stream Corridor boundary shall be that as prescribed by the Chapel Hill Development Ordinance in effect prior the enactment of this Land Use Management Ordinance on January 27, 2003.

With respect to continuation or expansion of development existing as of January 27, 2003, the Resource Conservation District Stream Corridor boundary shall be that as prescribed by the Chapel Hill Development Ordinance in effect prior the enactment of this Land Use Management Ordinance on January 27, 2003. For new development other than single-family or two-family on an existing lot (created before January 27, 2003), the Resource Conservation District boundary shall be determined as described in this section.

A graphic illustration of Stream Corridor Zones follows:

	<p style="text-align: center;">150' Total</p> <p style="text-align: center;">50' Stream Side 50' Managed Use 50' Upland</p>
Corridor Zone	Location and Required Width of Zone
<i>Stream Side</i>	<i>50' from Stream Bank</i>
<i>Managed Use</i>	<i>50' from outer edge of Stream Side zone</i>
<i>Upland</i>	<i>50' from Managed Use zone, or out to RCD Elevation, whichever is greater</i>
Total Corridor Area	150' minimum from each side of Stream Bank

(d) Resource Conservation District Elevation

A Resource Conservation District Elevation is hereby established and defined to be the elevation three (3) feet above the 100-year floodplain elevation. The 100-year floodplain elevation shall be established as:

- (1) The regulatory floodplain as delineated in the latest revision of the Flood Insurance Rate Maps, Flood Boundary Floodway Maps, and Flood Insurance Study for the Town of Chapel Hill, North Carolina, Orange, Durham, and Chatham Counties, as designated by the Associate Director of the Federal Emergency Management Agency; or
- (2) For flood areas shown on the Flood Insurance Rate Maps, Flood Boundary Floodway Maps, and Flood Insurance Study for The Town of Chapel Hill, North Carolina, Orange, Durham, and Chatham Counties as designated by the Associate Director of the Federal Emergency management Agency, but where the base flood elevations and flood hazard factors have not been determined, the 100-year

floodplain plan elevation shall be calculated using engineering methodology compatible (as determined by the Town Manager) with that used to develop the Flood Insurance Rate Maps, Flood Boundary, Floodway Maps, and Flood Insurance Study; or

- (3) For development proposals near perennial streams in unmapped areas that involve more than 5 acres or more than 50 lots, the 100-year floodplain elevation shall be calculated using engineering methodology compatible (as determined by the Town Manager) with that used to develop the Flood Insurance Rate Maps, Flood Boundary, Floodway Maps, and Flood Insurance Study.

(e) *Permitted Uses and Activities in Resource Conservation District*

- (1) Provided they are permitted within the General Use District, and subject to the provisions of subsections (f), (g), and (h) of this Section, the uses permitted in Column (A) of Table 3.6.3-2 shall be permitted uses within the Resource Conservation District. Such uses shall be restricted to the corridor zones indicated in Columns (B), (C), and/or (D) of Table 3.6.3-2.
- (2) No land disturbance, other than for a use or activity expressly permitted in subsection (1) above, is permitted within the Resource Conservation District unless a variance is approved pursuant to subsection (j), on next page.

Table 3.6.3-2: Permitted Uses within Resource Conservation District

(A)	(B)	(C)	(D)
Use	Stream Side Zone	Managed Use Zone	Upland Zone
Trails, greenways, open space, parks, and other similar public recreational uses and private recreational uses (consistent with Section 5.5.2(b) of this Ordinance) that do not require the use of fertilizers, pesticides, or extensive use of fences, or walls	P	P	P
Outdoor horticulture, forestry, wildlife sanctuary, and other similar agricultural and related uses not enumerated elsewhere in this Table that do not require land-disturbing activities or use of pesticides, or extensive use fences or walls	P	P	P
Pastures or plant nurseries that do not require land-disturbing activities or use of pesticides, or extensive use fences or walls	N	P	P
Gardens, play areas and other similar uses which do not require the use of pesticides for routine maintenance	N	P	P
Lawns, golf course fairways, play fields and other areas which may require the use of fertilizers or pesticides	N	N	P
Archery ranges, picnic structures, playground equipment and other similar public and private recreational uses that do not require the use of fertilizers, pesticides, or extensive use fences or walls	N	P	P
Public utility and storm drainage facilities where there is a practical necessity to their location within the Resource Conservation District	P	P	P
Streets, bridges, and other similar transportation facilities where there is a practical necessity to their location within the Resource Conservation District	S	S	S
Sidewalks	P	P	P
Accessory land-disturbing activities ordinarily associated with a single-family or two-family dwelling, such as fences, gardens, and similar uses	N	P	P
Driveways and utility service lines when there is a practical necessity	P	P	P
Public maintenance of streets, bridges, other similar transportation facilities and/or public utility and storm drainage facilities	P	P	P
Detention/retention basin and associated infrastructure	N	P	P
Lakes, ponds, and associated infrastructure, such as dams, spillways, riser pipes and stilling basins, that are located outside of the regulatory floodplain, shall be permitted with a Special Use Permit pursuant to Section 4.5 of this Chapter and only if a demonstrated public purpose is served	S	S	S
Stream and riparian area restoration and maintenance	P	P	P

“P” means the activity is permitted as of right, “N” means that the activity is prohibited; “S” means that the activity is permitted only upon approval of a Special Use Permit or a subdivision application by the Town Council; “V” means that the activity is permitted only with a variance granted by the Board of Adjustment.

(f) Dimensional Regulations

- (1) In lieu of the dimensional regulations generally applicable to the General Use District, the following standards shall apply to the Resource Conservation District, for all uses except public greenways and necessary public utilities:

Table 3.6.3-3: Dimensional Regulations in RCD

(A)	(B)	(C)	(D)
Dimensional Requirement	Stream Side Zone	Managed Use Zone	Upland Zone
Floor Area Ratio	.01	.019	Same as underlying zoning district
Impervious Surface Ratio (unsewered areas)	.06	.12	.12
Impervious Surface Ratio (sewered areas)	.10	.20	.20
Disturbed Area Ratio	.20	.40	.40

Application of these regulations shall be established in Section 3.6.3(h), below.

(g) Standards for Development in Resource Conservation District

The following standards and criteria shall apply to any portion of a development or, as appropriate, to any land disturbance, within the Resource Conservation District:

- (1) The lowest floor elevation of all permanent structures shall be placed at least eighteen (18) inches above the Resource Conservation District elevation and in such a manner as not to adversely impede the flow of waters. (This clause refers to floors of buildings. It does not refer to bridges or roads.)
- (2) Wherever practicable no stormwater discharge shall be allowed directly off an impervious surface into a stream channel.
- (3) Safe and convenient access, such as streets and driveways shall be provided to any development at or above the Resource Conservation District elevation unless otherwise authorized by the Town Manager. Utility lines, roads and driveways shall be located, as much as practicable, parallel to the flow of waters. Where a road, driveway, or utility line necessarily must cross a watercourse, such crossing shall be located and designed so as to allow convenient access by wildlife through and beyond such crossing, and shall be designed to safely convey floodwaters to the same extent as before construction of said crossings.

- A. Streets and bridges shall be spaced at an average interval of at least 400 feet within the proposed development, and not closer than 200 feet from streets on contiguous property. This distance shall be measured from the edge of the paved surface.
 - B. Shared driveways shall be permitted and encouraged within the Managed Use and Upland Areas of the RCD in order to minimize impervious surface coverages.
- (4) The site plan shall be designed to minimize adverse environmental and flooding effects on the Resource Conservation District and to achieve the purposes of this Chapter. Permanent structures shall be located, to the maximum extent feasible, as far from the watercourse, and as close to the outer boundary of the Resource Conservation District, as is practical. Permanent structures shall be clustered as much as practical, to minimize land disturbance, to maximize undeveloped open space, and to maximize retention of natural vegetation and buffers. Integrated Management Practices, as described in Section 5.4, shall accompany all development within the Resource Conservation District.
- (5) Water supply, sanitary sewer, and on-site waste disposal systems shall be designed to:
- A. prevent the infiltration of flood waters into the system(s),
 - B. prevent discharges from the system(s) into flood waters and,
 - C. avoid impairment during flooding to minimize flood damage. Finished floor elevations to be served by sanitary sewer shall be at or above the rim elevation of the nearest upstream manhole cover or be otherwise approved by the Town Manager. Sanitary sewer manholes must be provided with locking, watertight manhole covers, or be elevated to a height sufficient to prevent submersion or infiltration by floodwaters. All sewer and sewer outfall lines shall use gravity flow to a point outside the Resource Conservation District or be otherwise approved by the Town Manager and the Orange Water and Sewer Authority (OWASA).
- (6) Electrical, heating, ventilation, plumbing, gas, air-conditioning, and other service/utility facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding during the base flood discharge.
- (7) To the maximum extent feasible, all utility and service facilities shall be installed, constructed and otherwise protected so as to remain operational should floodwaters reach the Resource Conservation District elevation.
- (8) Land disturbing activity shall be kept to the minimum feasible. The smallest practicable area of land shall be exposed at any one time during development. Such minimal area shall be kept exposed as short a duration of time as is practical.

Temporary vegetation or mulching shall be used as needed to protect exposed areas. Natural plant covering and vegetation shall be retained and protected to the maximum degree practical when developing the site, as shall natural features and terrain. Disturbed areas shall be replanted with native trees, shrubs and ground cover.

- (9) Cutting or filling shall be permitted within the watercourse only if the resulting change to the hydraulic characteristics of the watercourse will:
 - A. Reduce or maintain the water surface elevation during the base flood discharge in the vicinity of the development; provided however, that in no case will cutting or filling be permitted within the watercourse if greater than a one foot per second increase in the velocity would result; or
 - B. Reduce or maintain the velocity of flow during the base flood discharge in the vicinity of the development; provided however, that in no case will cutting or filling be permitted within the watercourse if greater than 1/2 foot rise in the base flood elevation would result.
- (10) All new construction and/or substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure.
- (11) All manufactured homes permitted to be placed within Resource Conservation District shall be anchored to resist flotation, collapse, or lateral movement by meeting the minimum requirements of the North Carolina Building Code (latest revision).
- (12) Any manufactured home, new manufactured home park or new manufactured home subdivision permitted to be placed within the Resource Conservation District shall:
 - A. have stands or lots elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at least 18 inches above the Resource Conservation District Elevation;
 - B. have adequate surface drainage;
 - C. provide access for haulers;
 - D. have lots large enough to permit steps when the mobile home is placed on pilings; and
 - E. have pilings placed in stable soils no more than ten (10) feet apart, and reinforcement shall be provided for pilings more than six feet above ground level.

- (13) Development shall not be permitted if it results in any increased regulatory floodway elevation, during base flood discharge, as certified by a registered professional engineer.
- (14) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - B. The bottom of all openings shall be no higher than one foot above grade.
 - C. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

(h) Procedures in Resource Conservation District

(1) Other Approvals Required

No permit or approval required to be issued by the Town under the provisions of this Article shall be valid until all other permits or variances for the same proposal required by any other ordinance of the Town or statute of the State of North Carolina or the United States have been received from those agencies from which such permits or variances are required.

(2) Records and Filings

- A. The Town Manager shall maintain records of all development permits, approvals, certification of as-built finish floor elevation(s), certification of flood proofing measures, or variances regarding development within the Resource Conservation District. Such records shall include all actions on applications for such permits, approvals, or variances, as well as any conditions attached thereto. A Letter of Map Revision (LOMR) must be approved by the Federal Emergency Management Agency, or its successor agency, prior to variance approval by the Town. The Town Manager shall report variances granted for the relocation or alteration of riverine watercourses to adjacent communities, the N.C. Department of Crime Control, or its successor agency, and Public Safety and the Federal Emergency Management Agency, or its successor agency. Such report shall contain assurance that the relocation or alteration maintains the watercourse's flood carrying capacity.

- B. The Town Manager shall notify any applicant in writing of the decision on any application for any permit, approval, or variance with respect to property within the Resource Conservation District and shall file a copy of it with the Town's Planning Department.

The applicant shall record any variance with the Orange County Register of Deeds within sixty (60) days after written notice of approval of such variance by the Board of Adjustment.

(3) Exemptions

When a landowner or other affected party believes that the Town's Geographic Information System (GIS) coverages inaccurately depict surface waters, he or she shall consult the Town Manager. Upon request, the Town Manager shall make an on-site determination. When considering affirmative exemption requests, the Town Manager shall examine the particular parcel of land, existing information related to the parcel or the area, and other relevant information. Requests for affirmative exemption shall be in writing and shall include an explanation of the request. Any disputes over on-site determinations shall be referred to the Town Manager in writing. A determination of the Town Manager as to the accuracy or application of the Town's GIS data is subject to appeal as provided in Section 4.10. Surface waters shall not be subject to this Section if an on-site determination shows that they fall into one of the following categories:

- A. Ditches and manmade conveyances, such as gutters, other than modified natural streams.
- B. Man-made ponds and lakes located outside natural drainage ways.
- C. Ephemeral streams.

(4) Requirements for Development Applications

Every application which proposes development or land-disturbing activities wholly or partially within the Resource Conservation District shall include the following, unless affirmatively exempted by the Town Manager in part or entirely, for the whole area covered by the application:

- A. a utilities plan;
- B. a grading plan showing existing and final contours;
- C. a sedimentation and erosion control plan;
- D. a storm water management plan;
- E. a soils analysis;

- F. plans view showing: the topography of the site at a minimum horizontal scale of 1:60, at two-foot contour intervals; the location of streams, watercourses, stormwater runoff channels, etc; the limits of the floodway and floodplain; existing or proposed storm and sanitary sewers and sewer outfalls; septic tank systems and outlets, if any; existing and proposed structures and development; the 100-year flood and RCD elevations and limits; and existing and proposed tree lines;
- G. profile view showing: at a minimum horizontal scale of 1:60, and minimum vertical scale of 1:10, the elevations of the watercourses bed; waterway openings of existing and proposed culverts and bridges within or near the site; size and elevation of existing or proposed sewer and drain outlets; the 100-year water surface elevations and limits; and the elevation of the Resource Conservation District;
- H. a description of existing vegetation, including significant trees and shrubs; and a landscape plan for the completed development;
- I. a description of wildlife habitats, noting the types of habitat on site and their potential as habitats for various species of wild life and identifying any relevant limiting factors;
- J. description of proposed storage of materials and of waste disposal facilities;
- K. certificate from a registered professional engineer or architect with respect to floodproofing, or from a registered professional engineer or surveyor with respect to elevation, that any floodproofing measures on nonresidential uses or finished elevations meet the requirements of this Article;
- L. copies of notifications to and responses by adjacent communities, the North Carolina Department of Crime Control, or its successor agency, and Public Safety, and the Federal Emergency Management Agency, or its successor agency, regarding any proposed alteration or relocation of a riverine watercourse;
- M. the increase in elevation of the 100-year flood upstream from the development, velocity changes and rate of rise changes, runoff, water quality change, sediment deposit rate changes, and the duration of the flood. The Town Manager shall approve the methodology used to determine the changes;
- N. a list of owners of properties located within 500 feet of the subject property boundaries with the full name and address of each property owner, with stamped, pre-addressed mailing envelopes for each owner on the mailing list.

(i) ***Development in the Resource Conservation District***

- (1) Development in Resource Conservation District after January 27, 2003.

Development and land-disturbing activities within the RCD are prohibited after the effective date (January 27, 2003) of this Section unless exempted by this Section, or permitted by subsection (e) of this Section, or allowed pursuant to a variance authorized by this Section and approved by the Board of Adjustment.

- (2) Application of Resource Conservation District Ordinance to Use of Lawfully Established Development Existing on January 27, 2003 (or for which a vested right has been established) Outside of the Regulatory Floodplain.

Section 3.6.3 shall not apply to the continued use, operation or maintenance of any lawfully established development (outside of the regulatory floodplain) existing, or for which construction had substantially begun, on or before January 27, 2003 (or for which a vested right had been established). With respect to the requirements of Section 3.6.3, such development shall not be considered as nonconforming within the meaning of Article 7 of this Chapter.

- (3) Exemptions for Reconstruction, Rehabilitation, Renovation or Expansion of Development Existing on January 27, 2003 (or for which a vested right had been established) Outside of the Regulatory Floodplain.

A. This Article shall not apply to use, operation, maintenance, reconstruction, rehabilitation, or renovation of any lawfully established development (outside of the regulatory floodplain) existing, or for which construction had substantially begun, on or before January 27, 2003 (or for which a vested right had been established). With respect to the requirements of this Article, such development shall not be considered as nonconforming within the meaning of Article 7 of this Chapter.

B. Within the part of the Resource Conservation District that is outside of the regulatory floodplain, expansion of development is allowed only under the following circumstances:

1. With respect to the requirements of Section 3.6.3, any single-family or two-family dwelling or single dwelling unit within a townhouse development may be expanded. With respect to the requirements of Section 3.6.3, the dwelling or dwelling unit as expanded pursuant to this subsection shall not be considered as nonconforming within the meaning of Article 7;
2. With respect to the requirements of Section 3.6.3, development, other than single-family or two-family dwellings or single dwelling units within a townhouse development, development on any single zoning lot may be expanded to the extent of ten percent (10%) or less of its footprint as it existed on January 27, 2003; however, this

exemption shall not apply in cases where a development has been expanded one or more times since January 27, 2003, and where the past and proposed expansions, considered together, would increase the development's footprint by a total of more than ten percent (10%) of its footprint as it existed on January 27, 2003. With respect to the requirements of Section 3.6.3, such development as expanded pursuant to this subsection shall not be considered as nonconforming within the meaning of Article 7.

- (4) Application of the Resource Conservation District to the Reconstruction, Rehabilitation Renovation, or Expansion of Development Existing Within the Regulatory Floodplain and Floodway.
 - A. Within the regulatory floodplain, the reconstruction, rehabilitation, or renovation of a development existing, or for which construction had substantially begun, on or before March 19, 1984, is prohibited unless the reconstruction, rehabilitation, or renovation complies with the requirements of the Federal Emergency Management Agency, or its successor agency, in place at the time of reconstruction, rehabilitation, or renovation.
 - B. Within the regulatory floodplain, the **expansion** of a development existing, or for which construction had substantially begun, on or before March 19, 1984, is prohibited unless:
 - (1.) the expansion is permitted by subsection (e) and meets the design standards of subsection (g) of this Section; or
 - (2.) the expansion is permitted by a variance authorized by this Article and approved by the Board of Adjustment.

(j) Variances in the Resource Conservation District

(1) Application

An owner of property who alleges that the provisions of the Resource Conservation District leave no legally reasonable use of the property may apply to the Board of Adjustment for a variance. An application for a variance shall be filed with the Town Manager in accord with the provisions of Section 4.12 of this Chapter. In addition to the materials required by that subsection, the application must also comply with the submittal requirements of subsection (h) of this Section. On receipt of a complete application, the Town Manager shall cause an analysis to be made by appropriate Town staff based on the findings required in subsection (2), below. Within a reasonable period of time, the Town Manager shall submit the application and a report of his or her analysis to the Board of Adjustment.

- (2) Required Findings
 - A. The review of the Board of Adjustment shall extend to the entire zoning lot that includes area within the Resource Conservation District. The Board of Adjustment shall grant a variance, subject to the protections of this Article, if it finds:
 - (1.) That the provisions of this Article leave an owner no legally reasonable use of the portion of the zoning lot outside of the regulatory floodplain; and
 - (2.) That a failure to grant the variance would result in extreme hardship.
 - B. In making such findings, the Board of Adjustment shall consider the uses available to the owner of the entire zoning lot that includes area within the Resource Conservation District.
- (3) The Board of Adjustment shall grant the minimum variance necessary to afford appropriate relief under this Section. The Board may attach such reasonable conditions to the grant of a variance as it deems necessary to achieve the purposes of this Article.
- (4) The Board of Adjustment shall not grant any variance if it finds that such a variance would:
 - A. result in any increased regulatory floodway water surface elevation during the base flood discharge as certified by a registered professional engineer; or
 - B. result in significantly increased velocity of flow or deposit of sediment; or
 - C. result in significantly increased erosion, significant additional threats to public safety; or
 - D. result in significant threats to water quality; or
 - E. result in the removal of significant wildlife habitat; or
 - F. result in extraordinary public expense; or
 - G. result in public nuisance; or
 - H. impede the provision of greenway paths called for by the Town's Greenway Plan; or
 - I. conflict with the provisions of any other law or ordinance.

- (5) The Board of Adjustment may refuse to grant any variance if it finds that the owner of a lot, or any predecessor in interest, has subdivided such lot or has otherwise acted in an attempt to avoid or evade the provisions or intent of the Resource Conservation District.

- (6) Burden of Proof

Any owner of property applying to the Board of Adjustment for a variance from the provisions of this Article shall have the burden of establishing that such variance should be granted by the Board.

- (7) Presumption

Notwithstanding subsection (5), above, a showing that the portion of the Resource Conservation District outside of a regulatory floodplain overlays more than seventy-five percent (75%) of the area of a zoning lot, shall establish a rebuttable presumption that the Resource Conservation District leaves the owner no legally reasonable use of the zoning lot outside of the regulatory floodplain. Such presumption may be rebutted by substantial evidence before the Board of Adjustment.

- (8) Referral

The Board of Adjustment, before taking final action on an application for a variance, may refer such application to Town advisory boards or commissions.

- (9) Review Criteria

In reviewing applications for variances pursuant to this Article, the Board of Adjustment shall consider all technical evaluations, all relevant factors, other provisions of statute or ordinance, and:

- A. the danger to life and property due to flooding, sedimentation, and/or erosion damage at the site;
- B. the danger that structures or materials may be swept onto other lands to the injury of others;
- C. the danger to life and property from flood waters backed up or diverted by any obstruction or by debris collected by the obstruction;
- D. the susceptibility of the proposed development and its contents to flood damage and the effect of such damage on the individual owner;
- E. the importance of the services provided by the proposed development to the community;

- F. the necessity to the facility of a waterfront or low-lying location, where applicable;
- G. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- H. the compatibility of the proposed use with existing and anticipated development within the vicinity;
- I. the relationship of the proposed use to the comprehensive plan and the stormwater management program for that area;
- J. the safety of access to the property in times of flood for ordinary and emergency vehicles;
- K. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
- L. the effects of the proposed development on the heights, velocity, duration, and rate of rise of the flood waters upstream and downstream of the proposed site;
- M. the costs of maintaining or restoring public services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;
- N. the susceptibility of water supply and sanitation systems to contamination and unsanitary conditions during and after floods;
- O. the danger that issuance of the variance will set a precedent for future development in the Resource Conservation District which cumulatively may increase the flood hazard;
- P. the impact of the proposed use on the Town's open spaces and Greenway System;
- Q. the effect to water quality of the Town's actual or potential water supply sources;
- R. the effect on urban wildlife and plant life habitats;
- S. the effect on air and noise buffers which ameliorate the effects of development; and
- T. the degree to which drainage and flooding conditions in the vicinity would be improved by the proposed development.

(k) Transfer of Development Rights

The Resource Conservation District is hereby designated as a sending area for purposes of transferring development rights (see Section 3.9.2, below). Applicants are encouraged to attempt to transfer development rights within a Resource Conservation District before requesting a variance pursuant to subsection (j).

(l) Warning and Disclaimer of Liability

With respect to flood hazard, the degree of protection required by this Section is considered reasonable for regulatory purposes. Larger floods than anticipated or protected against herein will occur on occasion. This Section does not imply that land outside the Resource Conservation District or uses or variances permitted or allowed within such district will be free from flooding or flood damages. This Section shall not create any liability on the part of the Town, or any officer or employee thereof, for any flood damages that result from reliance on this Section or any administrative decision or process lawfully made thereunder.

3.6.4 Watershed Protection District (WPD)

(a) Intent

The Watershed Protection District (herein sometimes WPD) is intended to be applied to a portion of the New Hope Watershed draining to Jordan Lake in order to ensure long-term water quality of the Jordan Lake Reservoir, to protect possible future sources of drinking water for the Town and surrounding localities, and to control pollution sources affecting water quality.

Watershed protection regulations are applied by the Town of Chapel Hill pursuant to North Carolina General Statutes, Chapter 143, Article 21, Watershed Protection Rules, and implementing regulations of the North Carolina Environmental Management Commission, or its successor statutes and regulations.

In the interpretation and application of this Article, all provisions shall be: (a) considered as minimum requirements, (b) strictly construed in favor of the public interest and community benefit, and (c) deemed neither to limit nor repeal any other powers provided by Town ordinance or State statute.

(b) Establishment of Watershed Protection District

The Watershed Protection District is established for certain lands within the New Hope Watershed as a District that overlays other zoning districts established in Article 3. All development within the Watershed Protection District shall comply with the requirements of this Article. In addition, all development within the Watershed Protection District shall comply with the requirements of any additional overlay districts and the underlying zoning district.

The area of the District shall be defined generally as an area extending five (5) miles from the normal pool elevation of the Jordan Lake Reservoir, or to the ridge line of the Watershed, whichever is less.

The specific location of the Watershed Protection District shall be set by ridge lines, identifiable physical features such as highways, or property lines, and shall be shown on the official Zoning Atlas.

(c) Development in the Watershed Protection District

This Article shall apply to development and land-disturbing activities within the WPD after the effective date (July 1, 1993) of this Article unless exempted by this Section, or permitted by Section 3.6.4(d), or allowed pursuant to a variance authorized by this Article and approved by the Board of Adjustment.

(1) Application of Watershed Protection District to Development Existing on July 1, 1993

This Article shall not apply to the continued use, operation or maintenance of any development existing, or for which construction had substantially begun, on or before July 1, 1993. In addition, the Article shall not apply to Existing development which has established a vested right under North Carolina zoning law as of July 1, 1993, based on the following criteria:

- A. substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid approval to proceed with the project;
- B. having an outstanding valid building permit; or
- C. having expended substantial resources (time, labor, money) and having an approved Site Specific Development Plan pursuant to Section 20.4 of the Development Ordinance.

With respect to the requirements of this Article, such development shall not be considered as nonconforming within the meaning of Article 7 of this Chapter.

Multiple lots under single ownership as of July 1, 1993 are not subject to the provisions of this ordinance if vested rights have been established in accordance with North Carolina law. If no vested rights are established, then owners must comply with the provisions of this ordinance. Compliance may include requiring the recombination of lots.

(2) Application to Existing Single Family and Two-Family Lots

This Article shall not apply to single family and two-family development constructed or to be constructed on existing single-family lots created prior to July 1, 1993. This exemption is not applicable to multiple lots under single ownership. For purposes of constructing a single-family or two-family dwelling, lots of record as of July 1, 1993 which are established through a duly approved and properly recorded final plat shall be exempt from the provisions of this ordinance.

- (3) Application of the Watershed Protection District to the Redevelopment or Expansion of Development Redevelopment is allowed under the provisions of this Article if the redevelopment activity does not have a net increase of built-upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on lawfully established single family and two-family residential redevelopment.

Expansions to existing development as of July 1, 1993 must meet the requirements of this Article; however, the built-upon area of existing development is not required to be included in density and impervious surface area calculations, and there are no restrictions on expansion of lawfully established single family and two-family development.

(d) Permitted Uses Within the Watershed Protection District

- (1) The requirements or permitted uses indicated in the underlying zoning district, or any applicable overlay zone, apply in the Watershed Protection District, provided the standards of Sections 3.6.4(e) and 3.6.4(g) are met.

(e) Intensity Regulations

- (1) Land Use Intensity Regulations

The intensity regulations are those generally applicable to the underlying zoning district, or any applicable overlay zone, except as modified below.

- (2) Additional Intensity Regulations

In order to prevent an excessive amount of stormwater runoff from damaging the water quality of the reservoirs, it is desirable to require as much infiltration as possible of runoff from hard surfaces onto land areas which can absorb and filter runoff.

Any development in the Watershed Protection District shall be subject to one of two options, or a combination of options, to control non-point source and stormwater pollution, as described in Table 3.6.4-1.

Table 3.6.4-1: Development Options

Option	Standards
Low Density Option	Development activities shall not exceed two (2) dwelling units per acre (gross land area) or twenty-four percent (24%) built-upon area (impervious surface area) of gross land area.
High Density Option	Development activities which exceed the Low Density Option requirements must control the runoff from the first inch of rainfall. In addition, the built-upon area may not exceed fifty percent (50%) of gross land area for residential development or seventy percent (70%) for development with a non-residential component. All development under the High Density Option must meet the applicable performance standards of Section 3.6.4(g).

(f) Stream Buffer Requirements

All development shall comply with the provisions of Section 3.6.3, Resource Conservation District. In addition, the following standards for stream buffers shall apply to all perennial streams in the Watershed Protection District, in the event the Resource Conservation District is less restrictive than the following:

- (1) For developments choosing the Low-Density Option, the required stream buffer is thirty (30) feet.
- (2) For developments choosing the High-Density Option, the required stream buffer is one hundred (100) feet.
- (3) For all developments, no new development is allowed within the stream buffer area; water dependent structures, and public projects such as road crossings and greenways may be allowed where no practicable alternative exists; these activities shall minimize built-upon area, divert runoff away from surface waters and maximize the use of Best Management Practices.

All stream buffers shall be a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. If clearing, grading, or other land-disturbing activities have occurred and have reduced the effectiveness of the buffer, the buffer shall be replanted in accordance with a Landscape Plan to be approved by the Town Manager.

A stream buffer shall be measured landward from the normal pool elevation of impounded structures and from the bank of each side of perennial streams or rivers.

(g) Performance Standards

The following standards and criteria shall apply to any portion of a development or, as appropriate, to any land disturbance within the Watershed Protection District.

(1) Hazardous Materials

Any proposed development which uses and stores hazardous materials shall prepare an Emergency Contingency Plan as part of its development application. The Emergency Contingency Plan shall be prepared in accordance with the requirements of the Superfund Amendments and Reauthorization Act (SARA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or Section 311 of the Clean Water Act, as amended. The Plan shall identify buildings and the locations of points of storage and use of hazardous materials and shall be updated annually. The Plan shall be approved by the Town Manager.

Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double-walled or have other secondary containment features to be approved by the Town Manager.

Points of storage or use of hazardous materials shall be protected by a corrosion-resistant dike, sized to handle the maximum amount of hazardous material to be stored or used.

All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous material to be stored or used. These floor drains shall not be open to the site's natural drainage system.

(2) Solid Waste Minimization

All development shall submit a plan to be approved by the Town Manager which minimizes solid waste and promotes the recycling of materials in accordance with Section 5.13 of the Development Ordinance.

(3) Ownership, Design, and Maintenance of Engineered Stormwater Controls

Unless otherwise approved, ownership of the engineered stormwater controls shall remain with the property owner or a property owner's association.

Engineered stormwater controls shall be designed and constructed in accordance with standards and specifications established by the Town Manager, and designed to control the first one inch of stormwater using wet detention ponds, or using other methods accepted by the State.

The property owner shall post a performance bond or other surety instrument satisfactory to the Town Manager, in an amount approved by the Town Manager to assure maintenance, repair, or reconstruction necessary for adequate performance of the engineered stormwater controls.

The establishment of a stormwater utility by the Town of Chapel Hill shall be deemed adequate financial assurance.

(4) Construction Standards

The construction of new roads, bridges, residential and non-residential development shall minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ Best Management Practices to minimize water quality impacts.

(5) Cluster Provisions

The clustering of development in accordance with Section 3.8.8 of the Development Ordinance is encouraged, subject to the following additional standards:

- A. Overall density of the project meets the associated density or stormwater control requirements of Section 3.6.4(e);
- B. Built-upon areas are designed and sited to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow; and
- C. The remainder of the tract shall remain in a vegetated or natural state.

(h) Variances from the Board of Adjustment

(1) Application

An owner of property who alleges that the provisions of this Article leave no legally reasonable use of the property may apply for a variance.

This Article is established pursuant to North Carolina General Statutes Chapter 143, Article 21, and implementing regulations of the North Carolina Environmental Management Commission (Administrative Code Section 15 NCAC 28, .0100, .0200, and .0300), hereafter referred to as "State Watershed Regulations". A request for a variance from any requirement of this Article that does not conflict with any provision in State Watershed Regulations as amended, may be considered by the Board of Adjustment of the Town of Chapel Hill

A request for a variance from any requirement of this Article that conflicts with any provision in State Watershed Regulations, as amended, constitutes a variance of a more significant nature. A request for such a variance may only be granted in unique circumstances when necessary to accommodate important social and economic development. A request for such a variance shall be considered by the Board of Adjustment and referred to the North Carolina Environmental Management Commission, in accordance with the following procedures:

If the Board of Adjustment decides in favor of granting the variance, the Board of Adjustment shall prepare a preliminary record of the hearing with all deliberate speed and send it to the Environmental Management Commission. The preliminary record of the hearing shall include:

- A. the variance application;
- B. the hearing notices;
- C. the evidence presented;
- D. motions, offers of proof, objections to evidence, and rulings on them;
- E. proposed findings and exceptions; and
- F. the proposed decision, including all conditions proposed to be added to the permit.

If the Environmental Management Commission approves the variance as proposed, approves the variance with additional conditions, or denies the variance, the Commission shall prepare a decision and send it to the Board of Adjustment. The Board of Adjustment shall prepare a final decision in accordance with the Commission's decision.

An application for a variance from the Board of Adjustment shall be filed with the Town Manager in accord with the provisions of Section 4.12.1. In addition to materials required by that Section, the application must also comply with applicable submittal requirements.

On receipt of a complete application, the Town Manager shall cause an analysis to be made by appropriate Town staff based on the findings required in Section 3.6.4(h)(2). Within a reasonable period of time, the Town Manager shall submit the application and a report of his or her analysis to the Board of Adjustment.

(2) Required Findings

- A. The review of the Board of Adjustment shall extend to the entire zoning lot that includes area within the District. The Board of Adjustment shall grant a variance, subject to the provisions of this Article, if it finds:
 1. That the provisions of this Article leave an owner no legally reasonable use of the zoning lot; and
 2. That a failure to grant the variance would result in extreme hardship; and
 - a. That the hardship complained of is one suffered by the applicant rather than by neighbors or the general public;

- b. That the hardship relates to the applicant's property rather than to personal circumstances;
 - c. That the hardship is peculiar to the applicant's property, rather than a hardship shared by the neighborhood or resulting from the existence of nonconforming situations in the vicinity;
 - d. That the hardship is not the result of the applicant's own actions; and
3. That the variance will not substantially interfere with or injure the rights of others whose property would be affected by granting of the variance; and
 4. That the variance will not result in a violation of the provisions of Article 7 by allowing the enlargement, expansion, extension, or the greater permanence or intensity of a nonconforming use or feature, nor will it result in a violation of Section 3.6.3.

In making such findings, the Board of Adjustment shall consider the uses available to the owner in the underlying zoning district.

- B. The Board of Adjustment shall grant the minimum variance necessary to afford appropriate relief under this Section. The Board may attach such reasonable conditions to the grant of a variance as it deems necessary to achieve the purposes of this Article.
- C. The Board of Adjustment shall not grant any variance if it finds that such a variance would:
 1. result in significantly increased velocity of flow or deposit of sediment; or
 2. result in significantly increased erosion, significant additional threats to public safety; or
 3. result in significant threats to water quality.

(3) Burden of Proof

Any owner of property applying to the Board of Adjustment for a variance from the provisions of this Article shall have the burden of establishing that such variance should be granted by the Board.

(4) Referral

The Board of Adjustment, before taking final action on an application for a variance, may refer such application to Town advisory boards or commissions.

For all proposed variances, the Town Manager shall notify and allow a reasonable comment period for all other local governments having jurisdiction within the watershed area governed by the State regulations and the entity using the water supply for consumption.

(5) Review Criteria

In reviewing applications for variances pursuant to this Article, the Board of Adjustment shall consider all technical evaluations, all relevant factors, other provisions of statute or ordinance, and:

- A. the danger to life and property due to flooding, contamination, pollution, sedimentation, and/or erosion damage at the site;
- B. the importance of the services provided by the proposed development to the community;
- C. the availability of alternative locations for the proposed use;
- D. the compatibility of the proposed use with existing and anticipated development within the vicinity;
- E. the relationship of the proposed use to the Comprehensive Plan and the stormwater management plan for that area;
- F. the danger that issuance of the variance will set a precedent for future development which cumulatively may increase threats to ensuring the water quality of Jordan Lake Reservoir;
- G. the effect to water quality of Jordan Lake Reservoir; and
- H. the degree to which drainage conditions in the vicinity would be improved by the proposed development.

(i) ***Correction of Violations***

The owner of any land within the Watershed Protection District shall be presumed responsible for any violation of this Article committed on his or her property. The owner of any land within the Watershed Protection District shall be responsible for correcting any activity undertaken therein in violation of this Article. In addition, any other person found in violation of this Article shall be liable as provided by law. The Town may institute any appropriate action to restrain or prevent any violation of this Ordinance or to require any person who has committed any such violation to correct the violation or restore the conditions existing before the violation. The Town Manager shall enforce this Article as provided for in Section 4.13 of this Chapter.

(j) Other Approvals Required

No permit or approval required to be issued by the Town under the provisions of this Article shall be valid until all other permits or variances for the same proposal required by any other ordinance of the Town or Orange or Durham Counties or statute of the State of North Carolina or the United States have been received from those agencies from which such permits or variances are required.

(k) Records and Filings

- (1) The Town Manager shall maintain records of all development permits, approvals, or variances regarding development within the Watershed Protection District. Such records shall include all actions on applications for such permits, approvals, or variances, as well as any conditions attached thereto.
- (2) The Town Manager shall submit annually a description of each project receiving a variance and the reasons given by the Board of Adjustment for granting the variance to the North Carolina Environmental Management Commission.
- (3) The Town Manager shall maintain records of annual inspections of engineered stormwater management controls.
- (4) The Town Manager shall notify any applicant in writing of the decision on any application for any permit, approval, or variance with respect to property within the Watershed Protection District and shall file a copy of it with the Town's Planning Department.
- (5) The applicant shall record any variance with the Orange County Register of Deeds within sixty (60) days after written notice of approval of such variance by the Board of Adjustment.

3.6.5 Neighborhood Conservation District

Purpose Statement: Within the Town of Chapel Hill there are unique and distinctive older in-town residential neighborhoods or commercial districts which contribute significantly to the overall character and identity of the Town and are worthy of preservation and protection. Some of these districts are designated as historic districts, others may lack sufficient historical, architectural or cultural significance at the present time to be designated as Historic Districts. As a matter of public policy, the Town Council aims to preserve, protect, enhance, and perpetuate the value of these residential neighborhoods or commercial districts through the establishment of Neighborhood Conservation Districts.

The purposes of a Neighborhood Conservation District in older Town residential neighborhoods or commercial districts are as follows:

- *to promote and provide for economic revitalization and/or enhancement*
- *to protect and strengthen desirable and unique physical features, design characteristics, and recognized identity, charm and flavor;*

- *to protect and enhance the livability of the Town;*
- *to reduce conflict and prevent blighting caused by incompatible and insensitive development, and to promote new compatible development;*
- *to stabilize property values;*
- *to provide residents and property owners with a planning bargaining tool for future development;*
- *to promote and retain affordable housing;*
- *to encourage and strengthen civic pride; and*
- *to encourage the harmonious, orderly and efficient growth and redevelopment of the Town.*

(a) Designation criteria

To be designated a Neighborhood Conservation District, the area must meet the following criteria:

- (1) The area must contain a minimum of one block face (all the lots on one side of a block);
- (2) The area must have been platted or developed at least 25 years ago;
- (3) At least 75% of the land area in the proposed district is presently improved; and
- (4) The area must possess one or more of the following distinctive features that create a cohesive identifiable setting, character or association;
 - A. scale, size, type of construction, or distinctive building materials;
 - B. lot layouts, setbacks, street layouts, alleys or sidewalks;
 - C. special natural or streetscape characteristics, such as creek beds, parks, gardens or street landscaping;
 - D. land use patterns, including mixed or unique uses or activities; or
 - E. abuts or links designated historic landmarks and/or districts.
- (5) The area must be predominantly residential in use and character.

Any designated Historic Overlay District shall be deemed to satisfy the criteria listed above.

(b) Zoning Authority

Separate ordinances are required to designate each district. Ordinances designating each Neighborhood Conservation District shall identify the designated district boundaries, and specify the individual purposes and standards for that district.

(1) Overlay district.

Neighborhood Conservation Districts are designed as overlays to the regular zoning districts. Property designated within these districts must also be designated as being within one of the General Use Districts. Authorized uses must be permitted in both the General Use District and the overlay district. Property designated as a Neighborhood Conservation District may have additional designations. Such property shall comply with all applicable use restrictions.

(2) Zoning designation.

A. The zoning designation for property located within a Neighborhood Conservation District shall consist of the base zone symbol and the overlay district symbol (CD) as a suffix. Neighborhood Conservation Districts shall be numbered sequentially to distinguish among different districts, i.e., R-4 (CD-1), R-1 (CD-2), etc.

B. The designation of property within a Neighborhood Conservation District places such property in a new zoning district classification and all procedures and requirements for zoning/rezoning must be followed.

C. In the event of a conflict between the provisions of a specific Neighborhood Conservation District ordinance and the General Use District regulations, the provisions of the Neighborhood Conservation District ordinance shall control.

D. Except as modified by this Section, the procedures for zoning changes set forth in Section 4.4 shall otherwise apply to the designation of an area as a Neighborhood Conservation District.

(c) Application Procedures

(1) A proposal for designation as a Neighborhood Conservation District may be initiated:

A. at the direction of Town Council, or

B. at the request of owners representing 51% of the land area within the proposed district, or

C. at the request of 51% of property owners in a proposed district.

(2) Following initiation for designation of a Neighborhood Conservation District, the Planning Board, or a Committee designated by the Town Council with representation from the Planning Board, shall develop a neighborhood conservation plan for the proposed district that includes:

- A. maps indicating the boundaries, age of structures and land use of the proposed district;
 - B. maps and other graphic and written materials identifying and describing the distinctive neighborhood and building characteristics of the proposed district; and
 - C. design standards for new construction, additions or alterations to the street facades of existing buildings or structures within the proposed district.
- (3) All property owners within the proposed district shall be afforded the opportunity to participate in drafting the conservation plan. A conservation plan shall be approved as part of a Zoning Atlas Amendment creating a Neighborhood Conservation District.

(d) Design Standard

- (1) The conservation plan approved as part of the zoning ordinance creating a Neighborhood Conservation District shall include design standards for new construction or placement of any building, structure, foundation, sign, public art or outdoor apparatus or equipment (including visible utility boxes or mechanical equipment; trucks; lawn or landscaping equipment, but not including lawnmowers or hand tools; playground equipment; or sports equipment), and any additions, alterations, relocation or rehabilitation to the street facades of existing buildings, structures, foundations, sign, public art, or outdoor apparatus or equipment.
- (2) The conservation plan, and requisite design standards shall not apply to those activities which constitute ordinary repair and maintenance, i.e., using the same material and design.
- (3) The Design Standards for the Neighborhood Conservation District may include the following elements governing the physical characteristics and features of all property (public or private) within the proposed district:
- A. building height, number of stories;
 - B. building size, massing (frontage, entrance location/features);
 - C. lot size, coverage;
 - D. front and side yard setbacks;
 - E. off-street parking and loading requirements;
 - F. paving, hardscape covering.

In addition, the Design Standards may include, but shall not be limited to, the following elements:

- A. building orientation;
- B. general site planning (primary, ancillary structures);
- C. density;
- D. floor area ratio;
- E. signage;

- F. architectural style and details;
- G. building materials;
- H. garage entrance location;
- I. front window, dormer size and location;
- J. landscaping;
- K. fences and walls;
- L. entrance lighting;
- M. driveways and sidewalks;
- N. satellite dishes, utility boxes;
- O. street furniture;
- P. public art;
- Q. demolition (see subsection (e));
- R. roof line and pitch.

(e) Administration of Ordinance

- (1) No building permit shall be issued for new construction or an alteration or addition to the street facade of an existing building or structure within a designated Neighborhood Conservation District without the submission and approval of design plans and the issuance of a Zoning Compliance Permit by the Town Manager.
- (2) The Town Manager shall review the design plans to determine compliance with the design standards contained in the neighborhood conservation plan adopted for the district.
- (3) If the Town Manager determines that the design plans are in conformance with the design standards adopted for the district, the Town Manager shall approve the plans and issue a Zoning Compliance Permit and the Department of Building Inspections may issue a building permit.
- (4) If the Town Manager determines that the design plans are not in conformance with the design standards adopted for the district, the Town Manager shall not approve the plans, and will issue Notification of Non-Compliance, identifying the specific Design Standards violated.
- (5) The applicant may appeal the Town Manager's determination to the Board of Adjustment for a final determination.

3.7 Use Regulations

Purpose Statement: *It is the intent of this Article to provide for patterns of land use in accord with the Comprehensive Plan, and to promote the organization of land uses so as to minimize conflicts between different types of land use activities while recognizing the community's need for such activities.*

3.7.1 Permitted, Special and Accessory Uses

Uses of land or structures which are not expressly listed in Section 3.7.2 as permitted principal uses, permitted accessory uses, or permitted special uses in a zoning district or planned development are prohibited uses and shall not be established in that district or planned development. Bona fide farms in areas outside of Chapel Hill's municipal zoning jurisdiction, but within Chapel Hill's Transition Area as defined in the Joint Planning Agreement with Orange County, are not subject to these use regulations, as provided by N.C. General Statutes.

Uses listed as permitted special uses in a zoning district may be established in that district only after issuance and recordation of a Special Use Permit in accord with the procedures and conditions specified in Article 4, Section 4.5. Planned developments may be established in any zoning district only after the issuance and recordation of a Special Use Permit in accord with the procedures and conditions specified in Article 4, Section 4.5.

3.7.2 Use Matrix

Except as otherwise specifically provided in this Chapter, regulations governing the use of land and structures within the various zoning districts and classifications of planned developments are hereby established as shown in the following table, Use Matrix.

3.7.3 Use Groups

The division of permitted uses into use groups as shown in the Use Matrix is intended to differentiate such uses by intrinsic intensity relative to other uses and for application of certain standards as provided in this Chapter.

[Use Matrix begins on next page]

USES	Use Group	General Use Zoning District											Planned Development (PD-)																
		R-LD5	RT	R-LDI	R-1A	R-1	R-2	R-2A	R-3	R-4	R-5	R-6	R-SS-C	TC-1, TC-2	CC	NC	OI-1	OI-2	OI-3	OI-4	I	MH	H	SC(N)	SCI	OI	MU	I	
Clinic	B	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	--	--	P	P	P	--
Club	B	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	--	--	A	P	P	P	P	--	
College or University	B	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	P	P	P	--	--	--	--	--	P	--	--		
Drive-in Window (See also Article 6)	C	--	--	--	--	--	--	--	--	--	--	--	S	S	S	S	S	S	S	--	--	--	A	A	A	A	A		
Dwelling Units, Single Family	A	P	P	P	P	P	P	P	P	P	P	S	P	P	P	P	P	P	P	--	--	P	--	--	--	P	--		
Dwelling Units, Single-Family with Accessory Apartment	A	P	P	P	P	P	P	P	P	P	P	S	P	P	P	P	P	P	P	--	--	P	--	--	--	P	--		
Dwelling Units, Duplex(see also Article 6)	A	--	--	--	--	P	--	P	P	P	P	S	P	P	P	P	P	P	P	--	--	P	--	--	--	P	--		
Dwelling Units, Multi-Family, 3 to 7 dwelling units	A	--	--	--	--	--	--	--	P	P	P	S	P	P	P	P	P	P	P	--	--	P	--	--	--	P	--		
Dwelling Units, Multi-Family, over 7 dwelling units	A	--	--	--	--	--	--	--	--	--	--	S	P	P	P	P	P	P	P	--	--	P	--	--	--	P	--		
Essential Services	A	P	P	P	P	P	P	P	P	P	P	--	P	P	P	P	P	P	P	P	--	--	P	P	P	P	P	P	
Extraction of Earth Products (See also Article 6)	C	--	S	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
Fine Arts Educational Institution (See also Article 6)	B	--	--	--	--	--	--	--	--	S	S	--	P	P	P	P	P	P	P	--	--	--	--	--	--	--	--		
Flex Space	C	--	--	--	--	--	--	--	--	--	--	--	A	P	A	--	--	--	--	--	P	--	--	--	A	--	A	P	
Fraternity or Sorority Dwelling (See also Article 6)	B	--	--	--	--	--	--	--	--	S	S	--	S	S	--	S	S	P	P	--	--	--	--	--	--	--	--		
Funeral Home	B	--	--	--	--	--	--	--	--	--	--	--	P	P	A	--	P	P	P	P	--	--	--	--	P	--	P	--	
Group Care Facility (See also Article 6)	B	S	S	S	S	S	S	S	S	S	S	--	P	P	P	P	P	P	P	--	--	A	--	--	P	P	--		
Hangar, Medical Aircraft	C	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	--	--	--	--	--	
Home Occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	--	--	A	--	--	--	A	--	
Hospital	B	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	P	P	--	--	--	--	--	P	--	--	
Hotel or Motel	B	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	P	P	--	--	--	--	--	P	P	P	--	
Kennel	C	--	--	--	--	--	--	--	--	--	--	--	--	--	P	A	--	--	--	A	A	--	--	--	--	P	--	P	--
Landfill (See also Article 6)	C	--	S	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	

USES	Use Group	General Use Zoning District											Planned Development (PD-)																
		R-LD5	RT	R-LDI	R-1A	R-1	R-2	R-2A	R-3	R-4	R-5	R-6	R-SS-C	TC-1, TC-2	CC	NC	OI-1	OI-2	OI-3	OI-4	I	MH	H	SC(N)	SCI	OI	MU	I	
<u>Article 6)</u>																													
Maintenance/Storage Facility	C	--	--	--	--	--	--	--	--	--	--	--	--	--	A	--	--	--	P	P	P	--	--	--	A	--	A	P	A
Manufactured Home Park	A	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	P	--	
Manufactured Home, Class A	A	P	P	P	P	P	P	P	P	P	P	S	P	P	P	P	P	P	P	P	--	--	P	--	--	--	P	--	
Manufactured Home, Class B	A	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
Manufacturing, Light	C	--	--	--	--	--	--	--	--	--	--	--	A	P	A	--	--	--	--	--	P	--	--	--	A	--	A	P	
Outdoor Skateboard Ramp (See Article 6)	A	A	A	A	A	A	A	A	A	A	A	--	A	A	A	A	A	A	A	A	--	--	A	A	A	A	A	A	
Park/Ride (See also Article 6)	C	S	S	S	S	S	S	S	S	S	S	--	--	P	P	PA	P	P	P	P	--	--	A	P	P	P	P	P	
Parking, Off-Street	C	A	A	A	A	A	A	A	A	A	A	--	P	A	A	A	A	P	P	A	--	--	A	A	A	A	A	A	
Personal Services	C	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	A	A	--	--	A	P	P	--	P	--		
Place of Assembly, Over 2,000 seating capacity (See also Article 6)	C	--	--	--	--	--	--	--	--	--	--	--	S	S	--	--	--	S	P	--	--	--	--	P	P	--	--		
Place of Assembly, Up to 2,000 seating capacity	C	A	A	A	A	A	A	A	A	A	A	--	P	P	A	A	A	P	P	A	--	--	A	A	P	P	P	A	
Place of Worship (See Article 6)	B	P	P	P	P	P	P	P	P	P	P	--	P	P	P	P	P	P	P	P	--	--	P	P	P	P	P	--	
Public Cultural Facility	B	P	P	P	P	P	P	P	P	P	P	--	P	P	P	PA	P	P	P	P	--	--	P	P	P	P	P	P	
Public Service Facility (See also Article 6)	C	S	S	S	S	S	S	S	S	S	S	--	P	P	P	PA	P	P	P	P	--	--	A	P	P	P	P	P	
Public Use Facility	B	P	P	P	P	P	P	P	P	P	P	--	P	P	P	PA	P	P	P	P	--	--	P	P	P	P	P	P	
Publishing and/or Printing	C	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	P	P	P	P	--	--	--	--	P	P	P	P	
Radio, Television or Wireless Transmitting and/or Receiving Antenna (See also Article 6)	C	--	--	--	--	--	--	--	--	--	--	--	--	S	--	S	S	S	S	S	--	--	--	--	P	P	P	P	
Radio, Television or Wireless Transmitting and/or Receiving Antenna, Accessory	C	A	A	A	A	A	A	A	A	A	A	--	A	A	A	A	A	A	A	A	--	--	A	A	A	A	A	A	
Recreation	C	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	P	P	A	--	--	A	P	P	P	P	A	

* Definitions of uses are listed in Appendix A

KEY:

“--“ Not Permitted;

“S” Permitted as a Special Use;

“A” Permitted as an Accessory Use;

“P” In OI-3, OI-4, and MH: Permitted as a Principal Use;

In all zones except OI-3, OI-4 and MH: For all uses except existing Public Elementary and Secondary Schools. Permitted as a Principal Use if floor area of proposed development is less than 20,000 square feet, and area of disturbed land is less than 40,000 square feet; otherwise permitted as a special use. For existing Public Elementary and Secondary Schools, “P” indicates permitted as a Principal Use.

Note: The Use Groups established in the 2nd column of Table 3.7-1 are used to determine whether a site plan is needed for a change in use (see Section 4.7.1(f), and the applicability of buffers (see Section 5.6.6, Schedule of Required Buffers).

Note: In zoning districts R-1, R-2, R-2A, and R-3, the “--“ *Not Permitted* is effective until June 30, 2003, after which date Dwelling Unit, Duplex shall become a “P” *Permitted as a Principal Use*.

3.8 Dimensional Standards

Purpose Statement: It is the intent of this Article to provide for performance standards which serve to define the development character of an area, and to ensure the compatibility of development both with the environmental characteristics, accessibility levels, and special amenities offered by the development site and with surrounding land uses and development intensities. It is further intended that the establishment of intensity regulations reflect the protection of critical environmental areas and the suitability of land for a particular level of development intensity, in accord with the goals and objectives of the Comprehensive Plan.

The setback and height regulations established in the Dimensional Matrix are intended to ensure adequate solar access, privacy, and ventilation; access to and around buildings, off-street parking areas, loading space, and service areas; space for landscaping; and spacing between buildings and portions of buildings to reduce potential adverse effects of noise, odor, glare, or fire. Adequate solar access is deemed to consist of varying levels of access ranging from rooftop solar access in high-intensity zoning districts to south wall solar access in low-intensity zoning districts.

3.8.1 Establishment of Dimensional Regulations

Except as otherwise specifically provided in this Chapter, regulations governing the dimensions of lots and buildings are hereby established as shown in Table 3.8-1.

3.8.2 General Applicability of Dimensional Regulations

- (a) No land or structure shall be used or occupied, and no structure, or part thereof, shall be constructed, erected, altered, or moved except in compliance with the dimensional regulations herein specified for each zoning district.

- (b) No portion of land used in connection with an existing or proposed structure or use of land and necessary for compliance with the dimensional regulations of this Article shall also be used, through sale or otherwise, as part of the land required in connection with any other development.
- (c) Except as otherwise provided in this Chapter, dimensional regulations applicable to OI-3 and OI-4 zoning districts and planned development zoning lots shall be applied to the district or lot as a whole and not to individual parts thereof.

3.8.3 Exceptions to Setback and Height Regulations

- (a) The following features shall not be subject to the required minimum setbacks provided the Town Manager determines that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:
 - (1) roof overhangs which do not exceed 36 inches in length;
 - (2) free-standing signs and projecting signs, provided such signs comply with the sign standards established in Section 5.14;
 - (3) fences and walls not exceeding six (6) feet in height;
 - (4) flagpoles, bridges, and transmission poles, towers, and cables; and
 - (5) patios, decks and swimming pools not exceeding three (3) feet in height, provided they are not constructed closer than five feet from the property line of the zoning lot.
- (b) The following features may project above the building envelope defined by the maximum height limitations and additional setback requirements contained in Rules for Interpretation of Table 3.8-1, Columns (F) & (G), below, provided the Town Manager determines that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:
 - (1) chimneys, accessory radio or television antennas, flagpoles, monuments, cupolas, clock towers or decorative towers with a footprint not exceeding twenty percent (20%) of the principal building, provided the projection of such structures above the building envelope does not exceed fifteen percent (15%) of the maximum height limitation that defines the portion of the building envelope penetrated by such structures;
 - (2) steeples, or solar collectors, provided the projection of such structures above the building envelope does not exceed fifteen percent (15%) of the maximum height limitation that defines the portion of the building envelope penetrated by such structures;

- (3) spires, smokestacks, water tanks, windmills, radio and television transmitting towers, or relay towers, provided such structures do not exceed in height the horizontal distance therefrom to the nearest lot line; and
- (4) transmission poles, towers, and cables.

3.8.4 Transitional Control Intensity Modifications

- (a) In Office/Institutional - 3 districts, all development located within one hundred (100) feet of a Residential district shall observe floor area ratios equal to those required for Office/Institutional - 1 districts, as shown in Table 3.8-1.
- (b) In all nonresidential zoning districts and planned developments (TC-1, TC-2, CC, NC, 0I-3, 0I-2, 0I-1, I PD-SC, PD-0I and PD-I), the following setback and height regulation modifications shall apply:
 - (1) Minimum street setback across a street from residentially zoned land shall be equal to the street setback applicable in the Residential district across the street.
 - (2) Minimum interior setback adjacent to residentially zoned land shall be equal to the interior setback applicable in the adjacent Residential district.
 - (3) Minimum solar setback adjacent to residentially zoned land shall be equal to the solar setback applicable in the adjacent Residential district.
 - (4) The primary height limitation applicable at any of the modified setbacks identified in (1) – (3) above shall not exceed thirty-five (35) feet.

3.8.5 Housing Floor Area Restrictions for Major Subdivision and Planned Development

- (a) Major Subdivisions and Planned Development-Housing proposals which create residential building lots shall restrict the floor area of single- and two-family dwelling units in the following manner:
- (b) For a Major Subdivision or a Planned Development-Housing proposal with 5 or more single-family or two-family residential lots, at least 25% of the dwelling units shall contain no more than 1,350 square feet of floor area at the time that the units are initially conveyed.
- (c) Each lot that is large enough for only one single-family dwelling unit or that is limited by restrictive covenants to development only with a single-family dwelling unit shall be deemed to house one single-family dwelling unit. Each lot that is large enough for a two-family dwelling unit or that is allowed by restrictive covenants to develop with a two-family dwelling shall be deemed to house two dwelling units. The minimum number of size-limited units shall then be determined by multiplying the maximum number of dwelling units permissible within the development proposal as determined herein by the percentage specified above.

- (d) The subdivision preliminary and final plats and the Planned Development-Housing proposals minor subdivision plats shall indicate clearly each lot on which a size-limited unit must be constructed, and the builder, developer and purchaser shall be bound by that limitation.
- (e) No Zoning Compliance Permit or Building Permit shall be issued for the construction of any dwelling unit on any lot that has been designated as a lot on which a size-limited unit must be constructed unless the proposed dwelling conforms to the limitation of this Section. Notwithstanding the foregoing, this Section shall not prevent the purchaser of any size-limited unit, or any successor to such purchaser, from enlarging the dwelling unit at any time following thirty (30) months after the issuance of the initial Certificate of Occupancy for the Unit.
- (f) This Section shall not apply to any major subdivision or Planned Development proposal that has been approved by the Town Council prior to the effective date of this Chapter.
- (g) For purposes of this Section, “floor area” means floor area, as defined in Appendix A to this Ordinance, whether or not such floor area is intended for or suitable for immediate occupancy.
- (h) For purposes of this Section, an Accessory Apartment associated with a “Two-Family Dwelling including an Accessory Apartment” shall not be used to satisfy the requirement of (b) above as a dwelling unit containing no more than 1,350 square feet of floor area.

3.8.6 Alternatives to Floor Area Restrictions

3.8.6.1 Substitution of Affordable Housing for Floor Area Restrictions

With the approval of the Town Council, for a major subdivision or a Planned Development Housing proposal with 5 or more single-family or two-family lots, an affordable housing component, as defined below, may be substituted for the floor area restrictions described in Section 3.8.5.

The affordable housing component shall provide initial and continued affordability of at least 15% of the dwelling units. The dwelling units shall be priced to be affordable to individuals and families who have incomes at or below 80% of the area median income for a family of four. Restrictive covenants shall be recorded with the dwelling unit(s) to ensure the continued and ongoing compliance with these requirements and shall be sold to individuals and families who have incomes at or below 100% of the area median income by family size, and published periodically by the U.S. Department of Housing and Urban development.

The minimum number of affordable units shall be determined as described in Section 3.8.5 with the number of units based on the permissible units on each lot.

The subdivision preliminary and final plats and the Planned Development-Housing proposals minor subdivision plats shall indicate clearly each lot on which an affordable unit must be constructed, and the builder, developer and purchaser shall be bound by the restriction. The recorded plat shall cross-reference the restrictive covenants.

3.8.6.2 Substitution of Payment-in-Lieu of Affordable Housing for Floor Area Restrictions

As an alternative to providing the affordable housing components option in Section 3.8.6.1, a developer of a Major Subdivision or a Planned Development Housing which proposes 5-12 single-family or two-family residential lots may, with the approval of the Town Council, make a payment to the Town whereby the Town may fund affordable housing initiatives.

The Town shall use such payment only for the funding of affordable housing initiatives.

The amount of the payment shall be calculated by multiplying the number of affordable housing units to be provided as calculated in Section 3.8.6.1 (without dropping fractions) by an estimate of funding that would be needed to make a homeownership opportunity in the proposed development available to individuals and families with annual income at or below 80% of the area median income. The estimate shall be developed in consultation with and approved by the Town Manager. The developer shall make the payment before approval of a final plat for the subdivision or approval of a minor subdivision for the Planned Development-Housing, provided, however, that the Town Manager may allow phasing of payments consistent with the approved phasing of the subdivision.

A developer may make a partial payment in combination with the partial provision of an affordable housing component if the Town Council determines that the combination is appropriate.

3.8.7 Incentive for Residential Construction in Town Center (TC) Districts

The purpose of this Section is to provide an incentive for the construction of dwelling units in the Town Center.

- (a) The amount of floor reserved for residential uses on new or expanded lots shall be excluded from the floor area ratio calculation as follows:

TC Residential Floor Area Bonus

	TC-1	TC-2
Multi-Family Dwellings	Up to 5% or 1,000 sf of floor area, whichever is less	Up to 5% or 1,000 sf of floor area, whichever is less
Vertical Mixed Use Dwellings	Up to 15% or 15,000 sf of floor area, whichever is less	Up to 15% or 15,000 sf of floor area, whichever is less

3.8.8 Cluster Development

(a) Generally

The Town encourages cluster developments as defined in Appendix A. Cluster developments, as defined in Appendix A, require modification of lot size standards; individual lots may be somewhat smaller but the sum of reductions in lot area becomes common recreation area for the benefit of all residents of the cluster development. The recreation area is increased and the intensity of development is controlled. Cluster developments also allow the developer greater design flexibility and will permit reasonable use of land with difficult topography.

(b) Approval Requirements

The Town Council may approve a cluster development in any residential district if it finds that:

- (1) The tract proposed for cluster development is at least two (2) acres in size.
- (2) Public, separate, water supply and sewerage connections are available for every subdivided lot.
- (3) The total number of lots proposed for the tract, excluding parcels of reserved recreation area, is not greater than the number determined by multiplying the total gross land area by the maximum density established in Section 3.8 for that zoning district.
- (4) The recreation area reserved within the tract shall conform to the recreation area standards of Section 5.5.
- (5) The minimum amount of land reserved as recreation area shall be the sum of all reductions in minimum gross land area as a result of the cluster form of development, combined with the minimum recreation area reservation required in Section 5.5. Only the minimum recreation area reservation required in Section 5.5 may be dedicated outside the boundaries of the land being subdivided as specified in Section 5.5.2.

(c) Reductions in Lot and Setback Requirements

For lots created as part of a cluster development, minimum gross land area, minimum lot width, and minimum setback requirements may be reduced as follows:

- (1) Minimum lot size requirements specified in Section 3.8 may be reduced to 5,500 square feet gross land area.
- (2) Minimum lot width requirements specified in Section 3.8 for R-LD5, R-LD1, R-1A, R-1, R-2A, and R-2 zoning districts may be reduced to 50 feet.

- (3) Minimum street setback requirements specified in Section 3.8 may be reduced to 10 feet except where the street lot line forms an exterior boundary of the cluster development.
- (4) Minimum interior setback requirements specified in Section 3.8 for R-LD5, R-LD1, R-1A, R-1, R-2A, and R-2 zoning districts may be reduced to eight (8) feet except where the interior lot line forms a boundary of the cluster development.
- (5) Minimum solar setback requirements specified in Section 3.8 for R-LD5, R-LD1, R-1A, R-1, R-2A, and R-2 zoning districts may be reduced to ten (10) feet except where the north lot line forms a boundary of the cluster development.

(d) *Floor Area Ratios and Impervious Surface Limitations*

For lots created as part of a cluster development, Floor Area Ratios and Impervious Surface Limitations, as shown in Table 3.8-1, shall be calculated using the gross land area of the lot or the minimum lot size for the zoning district, whichever is greater.

[Dimensional Matrix begins on next page]

Table 3.8-1: Dimensional Matrix

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)
Zoning District	Minimum Lot Size	Maximum Density	Minimum Frontage	Minimum Lot Width	Maximum Building Height (Primary)	Maximum Building Height (Secondary)	Minimum Street Setback	Minimum Interior Setback	Minimum Solar Setback	Impervious Surface Ratio	Maximum Floor Area Ratio
R-LD5	217,800	0.2	200	250	29	35	30	16	20	.24/.5/.7	.025
RT	100,000	0.4	160	200	29	35	30	16	20	.24/.5/.7	.031
R-LD1	43,560	1.0	100	125	29	35	30	16	19	.24/.5/.7	.047
R-1A	25,000	2.0	80	100	29	38	29	15	18	.24/.5/.7	.062
R-1	17,000	3.0	64	80	29	40	28	14	17	.24/.5/.7	.076
R-2A	14,500	3.5	56	70	29	50	27	10	12	.24/.5/.7	.087
R-2	10,000	4.0	52	65	29	50	26	11	13	.24/.5/.7	.093
R-3	5,500	7.0	40	50	29	60	24	8	11	.24/.5/.7	.162
R-4	5,500	10.0	40	50	34	60	22	8	9	.24/.5/.7	.230
R-5	5,500	15.0	40	50	39	60	20	6	8	.24/.5/.7	.303
R-6	5,500	15.0	40	50	39	60	20	6	8	.24/.5/.7	.303
R-SS-C	N/A	N/A	N/A	N/A	39	60	10	0	N/A	.24/.5/.7	.400
TC-1	N/A	N/A	12	15	44	60	0	0	0	N/A	1.97
TC-2	N/A	N/A	12	15	44	90	0	0	0	N/A	1.97
CC	5,500	15.0	40	50	34	60	22	8	9	.24/.5/.7	.429
NC	5,500	10.0	40	40	34	60	24	8	11	.24/.5/.7	.264
OI-1	5,500	10.0	40	50	29	60	24	8	11	.24/.5/.7	.264
OI-2	5,500	15.0	40	40	34	60	22	8	9	.24/.5/.7	.264
OI-3	2,000	N/A	15	15	N/A	N/A	0	0	0	.24/.5/.7	.566
OI-4	2,000	N/A	12	15	N/A	N/A	0	0	0	N/A	N/A
I	17,000	N/A	64	80	26	50	26	11	13	.24/.5/.7	.071
MH	100,000	N/A	160	200	29	35	30	16	20	.24/.5/.7	.019
MU-OI-1	N/A	N/A	N/A	N/A	44	90	0	0	0	.24/.5/.7	.264
MU-R-1	N/A	N/A	N/A	N/A	29	90	0	0	0	.24/.5/.7	.076
MU-V arterial	5,500	15.0	80	62	60	114	10	5	20	.24/.5/.7	.500
MU-V collector	5,500	15.0	40	50	44	90	0	0	20	.24/.5/.7	.500
MU-V local	5,500	15.0	70	40	32	40	0	0	17	.24/.5/.7	.500

Rules of Interpretation for Dimensional Matrix begin on next page.

Rules for Interpretation of Table 3.8-1:

Generally. The requirements for the parameters set forth in Columns (B) through (L), above, relate to the zoning district specified in the row under Column (A), above. Refer to Appendix A for definitions of “Building Envelope” and “Height.” The notation “N/A” indicates that the requirement does not apply within the particular zoning district. The dimensions specified in Columns (D) through (J) are expressed in linear feet. The dimensions specified in Column (B) are expressed in square feet. Columns (K) and (L) are ratios applied to the gross land area of a site. Rules of interpretation and additional standards for setback and height requirements are set forth in the Lot Layout Standards (Section 5.2 of this Chapter).

Existing lots of record as of December 7, 1992, which are subsequently rezoned to R-LD5 can be subdivided to create up to three (3) lots of not less than two (2) acres gross land area in size each; provided, however the remaining land shall be developed with a minimum lot size of at least five (5) acres gross land area for each lot, and provided that no lot created under this exemption shall have a new direct access onto an arterial street.

Column (A): Column (A) refers to the applicable Zoning District.

Column (B): The minimum lot size figures are expressed in square feet. Where a zoning lot is located in more than one zoning district, the minimum gross land area required of such zoning lot shall be the sum of the areas derived by multiplying the minimum gross land area required for each represented district by the proportion of the zoning lot located within that district. For all dwellings except single-family dwellings, the minimum lot size is two (2) times the figures shown in Column (B).

Column (C): Applies to all residential uses except single-family dwellings. The maximum density requirements (Column (C)) are expressed in dwelling units per gross acre.

Column (D): Where a zoning lot fronts on two (2) or more streets, minimum street frontage width requirements shall be considered met if the frontage along any one of such streets meets the minimum street frontage width requirements. Where a zoning lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety (90) feet, the minimum street frontage width requirement shall be 35 feet.

Column (E): The width of a zoning lot shall equal or exceed the required minimum lot width for a depth of at least twenty-five (25) feet from the minimum street setback. Where a zoning lot fronts on two (2) or more streets, minimum lot width requirements shall be considered met if the lot width at the street setback from any one of such streets meets the minimum lot width requirement. Where a zoning lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety (90) feet, the minimum lot width shall be reached at a distance derived by the following formula: $D = 50 (W)/(35) - 50$, where W = minimum required lot width, and D = maximum distance from street right-of-way to where the lot width equals the minimum required width for that district. Flag lots shall reach the minimum lot width at a point not to exceed 200 feet from the street right-of-way.

Columns (F) & (G): (Note definition of “Building Envelope” in Appendix A). Building height is expressed in feet. Column (F) refers to height at the setback lines, while Column (G) imposes an absolute maximum in the event that upper floors contain additional setbacks as described below. Except where provided for additional setbacks in subsections (1) and (2), below, or where otherwise specifically provided by this Chapter, no structure, or part thereof, shall project beyond the building envelope defined by the minimum street, interior, and solar setbacks and the maximum heights established in the Dimensional Matrix for the zoning district in which such structure is located. For purposes of applying the following setback and height regulations to development within an OI-3 or OI-4 zoning district or within a townhouse development or a planned development, all contiguous land within the district, townhouse development, or planned development shall be considered as a single zoning lot. Height may exceed the primary height limit (Column (F)), up to the amount established in the secondary height limit (Column (G)), in accordance with the following:

Rules for Interpretation of Table 3.8-1 (cont'd)

Except for the Town Center, Mixed Use Zoning Districts, Office/Institutional-3, and Office/Institutional-4 zoning districts, the height of a structure may exceed the primary height limitation established in the Dimensional Matrix, provided that for each foot the height of such structure exceeds the primary height limitation, the minimum street, solar, and interior setbacks applicable to that portion of the structure exceeding the primary height limitation shall be increased by two (2) feet.

In the Town Center, Mixed Use Zoning Districts, Office/Institutional-3, and Office/Institutional-4 zoning districts, the height of a structure may exceed the primary height limitation established in the Dimensional Matrix provided that for each foot the height of such structure exceeds the primary height limitation, the minimum street and interior setbacks applicable to that portion of the structure exceeding the primary height limitation shall be increased by one foot, and the minimum solar setback applicable to that portion of the structure exceeding the primary height limitation shall be increased by one and seven-tenths (1.7) feet.

If a structure is located in the vicinity of an airport, the height limitations set forth in Federal Aviation Regulations, Part 77, or successor regulations, shall apply where such limitations are stricter than those established in this Chapter.

Column (H): Column (H) establishes a minimum setback from the street right-of-way line. Where a zoning lot fronts on a street with a right-of-way width not meeting the standards of this Chapter, street setback shall be measured from a line running parallel to the centerline of the street at a distance from such centerline equal to one-half (1/2) the standard right-of-way width for the street. The Town Manager or Town Council may exempt lots from this requirement upon making one of the following findings:

- Where a building line has already been established by existing structures along the block which are situated on lots comprising at least 25% of the street frontage, the building may be constructed at the established building line; or
- The existing right-of-way is adequate to encompass any anticipated need for widening of the street or other improvements, and widening of the right-of-way to Town standards would create nonconforming street setbacks for other structures on the street.

Column (I): The interior setback requirements may be reduced to 0 under certain conditions (see Section 5.2.8. Additional setbacks are required for height increases as set forth in the reference notes to Column (H), above. Side setbacks are set at "0" in many non-residential districts in order to encourage the formation of a street wall, as is found in traditional commercial centers such as the TC District along Franklin Street.

Column (J): The solar setback may be reduced to 0 under certain conditions (see Section 5.2.8). Minimum solar setback requirements shall not apply to any structure, or part thereof, where it is demonstrated to the Town Manager that the extent of the shadows projected for such structure at noon on the winter solstice does not exceed the maximum horizontal shadow pattern permitted by application of the minimum solar setback and maximum height limitations. Where a solar setback and either a street or interior setback both apply to the same portion of a lot line, the required minimum setback shall be the greater of the two (2).

Rules for Interpretation of Table 3.8-1 (cont'd)

Column (K): For areas located within the Watershed Protection District, Impervious surface is regulated under the provisions of Section 3.6.4 of this Chapter. For areas not located in the Watershed Protection District, the following impervious surface restrictions apply to all new development except single-family and two-family dwellings constructed or to be constructed on existing lots created prior to January 27, 2003 (or for which a Preliminary Plat has been approved by the Town Council prior to that date):

- (1) The maximum amount of new impervious surface on a lot, including building footprints and paved parking areas, is derived by multiplying the gross land area of the lot by the ratio established in Column (K). The Impervious Surface Ratio is .24 under a low-density option, as defined in Table 3.6.4-1. For residential development under a high-density option, as defined in Table 3.6.4-1, the Impervious Surface ratio is .50. For development with a non-residential component, under a high-density option as defined in Table 3.6.4-1, the Impervious Surface Ratio is .70.
- (2) Impervious surface restrictions shall not apply to Town Center zoning districts.
- (3) Gravel surfaces and lakes/ponds shall not be considered to be impervious surfaces.
- (4) Existing impervious surface on a lot as of January 27, 2003, shall not be included in impervious surface calculations, and shall not be considered to be a nonconforming feature.

For lots outside of the Watershed Protection District smaller than 10,000 square feet, the maximum amount of impervious surface under the low-density option shall be 40%.

Column (L): Maximum floor area allowed shall be the number of square feet derived by multiplying gross land area by the applicable floor area ratio (FAR), as shown in Table 3.8-1. A maximum floor area ratio shall not apply to public cultural facilities or single-family dwelling units (with or without an accessory apartment) located outside of a planned development. Where a lot is partially within the Resource Conservation District, the maximum allowable floor area of the portion of the lot outside of the Resource Conservation District shall be calculated as the sum of: (a) the product of (1) the floor area ratio of the portion of the zoning lot outside the Resource Conservation District, and (2) the area, in square feet, of the portion of the zoning lot outside the Resource Conservation District; and (b) the product of (1) the floor area ratio applicable to a permitted use in the Resource Conservation District, and (2) the area, in square feet, of the portion of the zoning lot within the Resource Conservation District.

For two-family duplex dwellings on a single zoning lot, the Floor Area Ratio shall be .40 in all zones and overlay zones.

For public elementary and secondary schools, the maximum floor area ration shall be .174 unless a higher floor area ratio is established in Column (L).

3.9 Incentive Zoning

Purpose Statement: *It is the intent of this Section to provide for increased levels of allowable development intensities as incentive for the provision of certain public benefits beyond those normally required by this Chapter or provided by private developers.*

3.9.1 Bonus Criteria.

- (a) An applicant may be granted a density bonus by the Town Council by establishing any of the incentive items as described in Column (A) in Table 3.9-1 herein consistent with the standards described in Columns (B) and (C) of Table 3.9-1.

Table 3.9-1: Bonus Density Chart

(A) Incentive Item	(B) Criteria	(C) Bonus Calculation
Redevelopment	Redevelopment of existing shopping centers.	For each 100 spaces of surface parking converted to structured parking on an area not exceeding 20% of the site area, an additional 20,000 feet of floor area may be constructed.

3.9.2 Transfer Of Development Rights

Purpose: *This Section establishes procedures for transferring densities from sending to receiving parcels. At the voluntary request of the landowners in the sending areas and the receiving areas, the Town may increase densities in the receiving areas and reduce densities in the sending areas.*

(a) Sending Areas Created

- (1) The Resource Conservation District is hereby designated as a “sending area” for purposes of this Section. Severable Development Rights are hereby created in the Resource Conservation District (RCD).
- (2) For purposes of this subsection, “development potential” means the number of dwelling units or floor area permitted by the provision of Section 3.6.3.
- (3) Documentation of compliance with the requirements for eligibility as a Sending Area shall be submitted with the Application for Development Approval requesting an increase in density in the Receiving Area provided.

(b) Receiving Districts Designated

Severable development rights may be exercised only in conjunction with the development or subdivision of any parcel of land that is located in a receiving district. A parcel of land which receives developments rights pursuant to this Section shall be referred to as a “receiving district.” The following districts are hereby designed as receiving districts for purposes of transferring severable development rights:

TC-1, TC-2	Town Center Districts
TOD	Transit-Oriented Development Districts
CC	Community Commercial
NC	Neighborhood Commercial
OI-1	Office/Institutional-1
OI-2	Office/Institutional-2
OI-3	Office/Institutional-3
I	Industrial
MH	Materials Handling
MU-OI-1	Mixed Use-OI-1
MU-R-1	Mixed Use-R-1
MU-V	Mixed Use-Village

(c) *Recordation Of Transfer Of Development Rights*

(1) Conditional Zoning District

No Development Rights shall be used on the Receiving Site until a conditional zoning district has been approved as provided herein. The conditional zoning district shall include a condition requiring recordation of a deed in accordance with the requirements of subsection (2), below.

(2) Dedication

Prior to issuance of a building permit, the owner of the transferor parcel shall record a deed in the chain of title of the transferor parcel expressly restricting the use of the land in perpetuity to open space, agricultural lands or street/road right-of-way. The deed restriction shall be expressly enforceable by the Town Council, and a boundary plat for the transferor parcel shall be recorded reflecting the restriction.

(d) *Evidence of Restriction Required For Development Approval*

A developer of a receiver site must submit, in conjunction with his/her application for development approval, evidence that the transferor parcel has been restricted to non-development uses and that a boundary plat has been recorded in accordance with the above provisions. No plat for a subdivision in conjunction with which severable development rights are exercised shall be recorded by the register of deeds, and no new building, or part thereof, or addition to or enlargement of an existing building, that is part of a development project in conjunction with which severable development rights are exercised shall be occupied, until documents have been recorded in the office of the register of deeds transferring title from the owner of the severable development rights to the receiver.

ARTICLE 4. PROCEDURES

This Article consolidates the procedures for filing and processing applications for development approval. The format is designed to allow the reader to determine the various steps involved in obtaining development approval, from the initiation and filing of an application, administrative completeness review, review for compliance with substantive standards, and public hearings. Section 4.1 describes the elements common to all types of permits, while Sections 4.3 – 4.9 set out the procedures for specific types of permits. Section 4.2 describes how to amend the Comprehensive Plan. Procedures for appeals and variances are described in Sections 4.10 – 4.12. Violation procedures are established in Section 4.13.

4.1 General Procedural Requirements

4.1.1 Application Process

The specific procedures followed in reviewing various applications for development approval may vary. Generally, the procedures for all applications have three common elements: (1) submittal of a complete application, including required fee payment and appropriate information; (2) review of the submittal by appropriate staff and boards; and (3) action to approve, approve with conditions, or deny the application.

4.1.2 Completeness Review

- (a) No Application shall be deemed complete unless all required information is included, and all application fees required by this Chapter have been paid. An Application which includes such information shall be deemed complete. Current application materials shall be made available in the Planning Department Offices. All decisions of the Town Manager pertaining to completeness may be appealed to the Board of Adjustment pursuant to Section 4.10 of this Chapter.
- (b) Whenever this Article establishes a time period for processing of an application, such time period shall not commence until the Town Manager has reviewed such application for completeness in order to determine whether the application has been properly submitted and the applicant has corrected all deficiencies in such application. Review for completeness of application forms is solely for the purpose of determining whether preliminary information required for submittal with the application is sufficient to allow further processing, and shall not constitute a decision as to whether application complies with the provisions of this Chapter.

4.2 Comprehensive Plan

Purpose Statement: *The purpose of this Section is to prescribe uniform procedures for the establishment and amendment of the Comprehensive Plan.*

(a) Process

The Town Council shall adopt and maintain a Comprehensive Plan for Chapel Hill. Amendments to the Comprehensive Plan, or a new Comprehensive Plan, shall be prepared by the Planning Board with assistance from the Town Manager and approved, modified, or rejected by the Town Council. The Comprehensive Plan shall be used as a guide for decision-making.

(b) Schedule for Updates

The Comprehensive Plan may be amended at the discretion of the Town Council.

4.3 Concept Plan Review

Purpose Statement: *It is the intent of the Site Analysis Data and Conceptual Development Plan process to provide an opportunity for the Town Council, Town Manager, the Community Design Commission and citizens to review and evaluate the impact of a major development proposal on the character of the area in which it is proposed to be located. This process is intended to take into consideration the general form of the land before and after development as well as the spatial relationships of the proposed structures, open spaces, landscaped areas, and general access and circulation patterns as they relate to the proposed development and the surrounding area.*

4.3.1 Applicability

(a) Proposals Subject to Review by Community Design Commission

This Section applies to any:

- (1) Special Use Permit or a Special Use Permit Modification; or
- (2) Master Land Use Plan or a Master Land Use Plan Modification; or
- (3) Major Subdivisions.

(b) Proposals Subject to Additional Review by Town Council

- (1) An application that meets any of the minimum thresholds established in subsections (1) or (2), below, shall require Town Council review as provided in Section 4.3.2, below, in addition to Community Design Commission review:

Thresholds (minimum)	TC-1, TC-2 Zoning Districts	All Other Zoning Districts
Land Area	15,000 square feet	5 acres
Floor Area	20,000 square feet	100,000 square feet
Dwelling Units	35 dwelling units	50 dwelling units

- (2) If an application does not meet the thresholds established in subsection (1), above, the applicant may request review by the Town Council. The Town Council may determine to review the application, or it may decline to review the application. Such request shall be filed at least fifteen (15) days in advance of a regular meeting of the Town Council. The Town Council's determination shall be rendered at its next regular meeting after receiving a complete request for Town Council review.

4.3.2 Procedures

(a) Application Submittal Requirements

Applications for Site Analysis Data and Conceptual Development Plan review shall be filed with the Town Manager. The Town Manager shall prescribe the form(s) on which information shall be submitted. Forms shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner in connection with the plan. If the applicant or property owner is an entity other than an individual, the plans shall also include detailed information regarding the principals of the entity. Forms shall include the name of the project principals and indicate the project principals development experience. The Town Manager shall prescribe any other material that may reasonably be required to determine compliance with this Chapter and relationship to the Town's Comprehensive Plan with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such submittal requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the applications

(b) Time Frame for Action on Concept Plans

Upon receipt of a complete Concept Plan, the Town Manager shall forward all information submitted by the applicant for review by the Community Design Commission within thirty (30) days.

(c) Aspects of Review

The Town Council and Community Design Commission, in examining development applications, are to consider the various aspects of design, with special emphasis on whether the proposed development is consistent with the Town's Design Guidelines and the Goals and Objectives of the Town's Comprehensive Plan.

(d) Community Design Commission Review

- (1) The Community Design Commission shall review the application and shall submit its written recommendation to the applicant and Town Council, if applicable.
- (2) The Community Design Commission shall consider public comments and shall base its recommendation on its determination of whether or not the application conforms to applicable provisions of this Chapter.
- (3) The Community Design Commission shall provide its recommendations to the applicant within thirty-five (35) days of the meeting at which a complete application is considered, or within such further time consented to in writing by the applicant or by Town Council resolution. If the Community Design Commission fails to prepare its recommendation to the applicant within this time limit, or extensions thereof, that agency shall be deemed to recommend the application without conditions.

(e) Town Council Review

- (1) After receiving the recommendations of the Community Design Commission, the Town Council shall review the application in the same manner as prescribed in subsection (d), above. The Town Council may appoint a subcommittee to review the application. The Mayor shall determine the membership of the subcommittee.
- (2) The Town Council may conduct its review concurrent with the Community Design Commission.
- (3) After considering public comments and the recommendations of the Community Design Commission, the Town Council shall adopt a resolution transmitting its preliminary recommendations to the applicant.

4.3.3 Criteria

The Concept Plan is a preliminary step toward the preparation of a formal development plan. All Concept Plans should demonstrate a high quality of overall site design. The design and construction of site elements should include appropriate descriptions and explanations of the relationship and balance among site elements, the relationship of the development to natural features, neighboring developments and undeveloped land, access and circulation systems, retention of natural vegetation, minimal alteration of natural topography, mitigation of erosion and sedimentation, mitigation of stormwater drainage and flooding, arrangement and orientation of buildings and amenities in relation to each other and to neighboring developments and streets, landscaping, preservation or enhancement of vistas, and mitigation of traffic impacts.

4.4 Zoning Amendments

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.

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.

4.4.1 Initiation

- (a) A request to amend this Chapter may be initiated by:
 - (1) the Town Council, on its own motion;
 - (2) the Planning Board, Board of Adjustment, Historic District Commission, or Community Design Commission, on submittal of a request to the Town Council;
 - (3) the Town Manager, on submittal of a request to the Town Council; or
 - (4) any property owner or citizen, or agent thereof, on submittal of an application to the Town Manager.
- (b) All requests and applications for amendments to this Chapter shall be acted on as provided in this Section.
- (c) Pursuant to North Carolina General Statutes Section 160A-382, a request for rezoning to a conditional use district may be made only by application from the owner(s) of all the property included in the area proposed to be rezoned. An application for rezoning to a conditional use district may include a request by the property owner(s) to limit the uses allowed with approval of a Special Use Permit. An application for rezoning to a conditional use district may be accompanied by an application for a Special Use Permit, as provided in Section 4.5 of this Chapter, and may be reviewed concurrently with the Special Use Permit application; provided, however, that the Special Use Permit application shall be approved separately as provided in Section 4.5 of this Chapter.

4.4.2 Procedures

(a) *Town Council Acceptance of Requests*

On receipt of an amendment request as provided in Section 4.4.1(a), above, the Town Council may set a date for a public hearing on the request. If the Town Council sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the Town Manager, the Planning Board, and any other appropriate board or commission for their consideration.

(b) Application Submittal Requirements

- (1) Applications for amendments to this Chapter, as provided in 4.4.1(a), shall be filed with the Town Manager.
- (2) The Town Manager shall prescribe the form(s) on which applications are made. Applications shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner in connection with the application. If the applicant or property owner is an entity other than an individual, the application shall also include detailed information regarding the principals of the entity. The Town Manager shall prescribe any other material that may reasonably be required to determine compliance with this Chapter, with sufficient copies for necessary referrals and records.
- (3) No application shall be accepted by the Town Manager unless it complies with such requirements. Applications that are not complete shall be returned to the applicant, with a notation of the deficiencies in the application.

(c) Town Manager's Report to Planning Board

When an amendment request is referred to the Town Manager or when he/she accepts an application for amendment, the Town Manager shall cause appropriate officials to determine if it conforms with the intent of this Article and upon completion of his/her report shall submit his or her report at the next regularly scheduled meeting of the Planning Board.

(d) Planning Board Review

- (1) The Planning Board shall review the request or application and the Town Manager's report and recommendations, and shall submit a written recommendation to the Town Council.
- (2) The Planning Board shall prepare its recommendations within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to the Planning Board and shall forward its recommendations to the Town Council at the Town Council's next available public hearing scheduled for amendment applications or within such further time consented to in writing by the applicant or by Town Council resolution. If the Planning Board fails to complete its recommendation to the Town Council within this time limit, or extensions thereof, the Planning Board's recommendation shall be for approval.

(e) Public Hearing

- (1) After it receives the Town Manager's report and the Planning Board's recommendation or, if applicable, the expiration of the time limit prescribed in Section 4.4.2.(d)(2), the Town Council shall hold a hearing on the application at the next available regularly scheduled public hearing in order to receive comments, testimony, and exhibits pertaining to the application. The Town Council, by resolution, shall adopt a schedule of public hearings.

- (2) Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) consecutive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

(f) *Town Manager's Report to Town Council*

- (1) After completion of the initial public hearing, the Town Manager and Town Attorney shall review the record of the public hearing and the Town Manager shall prepare and submit to the Town Council a report containing findings as to conformity with the intent of this Chapter and a recommendation for action.
- (2) Such report shall be submitted to the Town Council within thirty (30) days after completion of the initial public hearing, or within such further time as may be consented to by written notice from the applicant or by Town Council resolution. Failure of the Town Manager to submit a recommendation to the Town Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation.

(g) *Town Council Action*

The Town Council shall review the application or request for amendment, the record of the public hearing, the Planning Board's recommendation and the Town Manager's report, and shall approve or deny the application or request based on its findings as to conformity with the intent of this Article.

(h) *Relationship of Conditional Use District Zoning and Special Use Permit*

- (1) If the Town Council approves an application for rezoning to a conditional use district, but denies the accompanying application for a Special Use Permit, or if an application for a Special Use Permit is not considered by the Town Council, the rezoning application shall be deemed to be conditionally approved, subject to submittal and Town Council approval of an application for a Special Use Permit in accord with Section 4.5 of this Chapter.
- (2) Failure to submit a Special Use Permit application within one year of the conditional approval of rezoning to a conditional use district or, if submitted, the withdrawal of such application without prior Town Council approval, shall void the conditional approval.
- (3) If a Special Use Permit issued for a Conditional Use District is abandoned, revoked, or becomes void, under the provisions of this Chapter, the conditional use zoning shall be void and the property shall revert to its previous zoning classification.
- (4) No use other than a use permitted by the previously-existing zoning may be made under the conditional approval of rezoning to a conditional use district.

- (5) The owner(s) of a property subject to conditional approval of rezoning to a conditional use district may, upon notice to the Town Council, abandon the conditional approval of the rezoning before expiration of the one-year period.

(i) *Protest Petition*

A petition protesting a proposed amendment shall be subject to the provisions of North Carolina General Statutes Sections 160A-385 and 386, as may be amended from time to time. Any petition shall:

- (1) be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed amendment;
- (2) be received by the Town Clerk at least two (2) normal work days prior to the date established for the public hearing on the proposed amendment; and
- (3) be on a form prescribed and provided by the Town Manager and contain all the information requested on the form.

(j) *Effect of Denial or Withdrawal on Subsequent Applications*

When the Town Council shall have denied an application for amendment or the application shall have been withdrawn, by written notice, after publication of the first public hearing notice required in Subsection 4.4.2.(e), the Town Manager shall not accept another application for the same or similar amendment affecting the same property or a portion thereof, until the expiration of a twelve (12) month period extending from the date of denial or withdrawal, as appropriate.

(k) *Amended Applications*

If the applicant proposes any substantial changes to the application subsequent to acceptance of the application, an amended application shall be submitted and reviewed as an original application.

(l) *Actions Subsequent to Decision*

- (1) The Town Manager shall cause notice of the disposition of the application to be sent to the applicant and shall cause a copy of the decision to be filed in the office of the Planning Department.
- (2) In the case of approval, any necessary changes to the official Zoning Atlas shall be entered in accord with the provisions of Article 3.

4.5 Special Use Permits

Purpose Statement: It is the intent of this Article to recognize and permit certain uses and developments that require special review, and to provide standards by which applications for permits for such uses and developments shall be evaluated.

It is the intent of this Chapter that all Special Use Permits shall demonstrate a high quality of overall site and building design. The criteria and procedures established in this Section ensure that the design and construction of site elements include appropriate consideration of the relationship and balance among site elements, the relationship of the development to natural features, neighboring developments, and access and circulation systems, retention of natural vegetation, minimal alteration of natural topography, mitigation of erosion and sedimentation, mitigation of stormwater drainage and flooding, arrangement and orientation of buildings and amenities in relation to each other and to neighboring developments and streets, landscaping, preservation or enhancement of vistas, and mitigation of traffic impacts.

It is further intended that Special Use Permits be required for the following types of developments:

- a) Special uses that, because of their inherent nature, extent, and external effects, require special care in the control of their location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare; and*
- b) Planned developments that require special review in order to provide the regulatory flexibility and performance criteria necessary to permit a creative approach to the development of land that will (i) accomplish a more desirable environment than would be possible through the strict application of the generally applicable requirements of this Chapter; (ii) provide for an efficient use of land and arrangement of land uses, buildings, circulation systems, and utilities; (iii) promote an improved level of amenities; and (iv) provide an environment of stable character compatible with surrounding areas; and*
- c) All uses established in conditional use districts.*

4.5.1 Applicability

- (a) Special uses may be established in accord with the procedures and general requirements set forth in Sections 4.5.2 - 4.5.3, below.*
- (b) A Special Use Permit may be requested for any development authorized by this Chapter. Once a Special Use Permit is approved for a property, that use may be established on that property only after issuance and recordation of a Special Use Permit.*
- (c) Those uses listed in the Use Matrix (Section 3.7) as permitted special uses in a zoning district may be established in that district only after issuance and recordation of a Special Use Permit.*

- (d) Those planned developments described in Section 6.18 may be established in any zoning district and only after issuance and recordation of a Special Use Permit.
- (e) Any uses in conditional use districts, as described in Section 3.4 shall be established only after issuance and recordation of a Special Use Permit.

4.5.2 Standards and Findings of Fact

- (a) No Special Use Permit shall be recommended by the Town Manager or Planning Board for approval and no Special Use Permit shall be approved by the Town Council unless each of the following findings is made concerning the proposed special use or planned development:
 - (1) That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
 - (2) That the use or development complies with all required regulations and standards of this Chapter, including all applicable provisions of Articles 3 and 5, the applicable specific standards contained in the Supplemental Use Regulations (Article 6), and with all other applicable regulations;
 - (3) That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
 - (4) That the use or development conforms with the general plans for the physical development of the Town as embodied in this Chapter and in the Comprehensive Plan.
- (b) In the case where a Special Use Permit is requested for a parcel of land covered by an approved and valid Master Land Use Plan (as defined in Section 4.8.1), and the proposed development is consistent with the Master Land Use Plan, then a rebuttable presumption shall be established that the Town Council can make findings (1), (3) and (4) above.
- (c) Except where more restrictive specific standards are required below, or as modified as described in Section 4.5.6, special uses shall comply with the dimensional regulations established in Section 3.5 for the zoning district in which such use is located and the use group to which such use belongs, and with the design standards established in Article 5 of this Chapter.
- (d) In addition to the general determinations required in subsection (a) and (b), above, any supplemental use regulations established in Article 6 shall apply for the designated special use.

4.5.3 Procedures for Approval of Special Use Permits

(a) Application Submittal Requirements

- (1) Applications for Special Use Permits shall be filed with the Town Manager.
- (2) The Town Manager shall prescribe the form(s) on which applications are made. Applications shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner in connection with the application. If the applicant or property owner is an entity other than an individual, the application shall also include detailed information regarding the principals of the entity. The Town Manager shall prescribe any other material that may reasonably be required to determine compliance with this Chapter, with sufficient copies for necessary referrals and records.
- (3) Special Use Permit and Special Use Permit Modification applications shall identify all proposed utilities providing service to the proposed development, whether on- and off-site, increases in utility capacity or modification of utility service facilities that are requested, the type of utility, and whether service lines are provided above the ground surface or underground.
- (4) No application shall be accepted by the Town Manager unless it complies with such requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

(b) Town Manager's Analysis

When he/she accepts an application, the Town Manager shall cause representatives of the Town, and such other agencies or officials as may be appropriate, to determine if it conforms to the Comprehensive Plan, the provisions of this Chapter, and other regulations applicable in the case. In the case of planned developments, such representatives, agencies or officials shall define specifically the modifications of regulations which seem justified in view of the standards set out in Section 6.18.

(c) Preliminary Conferences with Applicant

- (1) The Town Manager shall notify the applicant, in writing, of the proposal's deficiencies. The Town Manager shall also notify the applicant of his/her willingness to discuss alternatives to correct those deficiencies.
- (2) If the applicant joins in such discussions, the application may be modified, further discussions may be held, or additional information may be requested by the Town Manager.

(d) Town Manager's Report to Planning Board

- (1) The Town Manager shall submit to the Planning Board a written analysis of the application and his/her recommendation based on the findings required in Section 4.5.2.
- (2) If the applicant does not join in preliminary conferences with the Town Manager, the Town Manager shall complete his/her report within twenty-five (25) working days after he/she accepts the application or within such further time consented to in writing by the applicant or established by Town Council resolution. If the Town Manager fails to prepare his/her report to the Planning Board within this time limit, or extensions thereof, the application shall be deemed to be recommended without conditions.
- (3) If the applicant participates in preliminary conferences with the Town Manager, the Town Manager shall prepare his/her report to the Planning Board when further conferences appear unnecessary. No time limits shall apply to the Town Manager's review when the applicant joins in preliminary conferences. However, the applicant may require the Town Manager to submit the application and his/her report to the Planning Board whenever the applicant wishes to end discussions.
- (4) The Town Manager shall forward his/her report to the Planning Board at its next available regularly scheduled meeting.

(e) Planning Board Review

- (1) The Planning Board shall review the application and the Town Manager's report and shall submit to the Town Council a written recommendation based on the findings required in Section 4.5.2.
- (2) The Planning Board shall prepare its recommendations within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to it or within such further time consented to in writing by the applicant or by Town Council resolution. If the Planning Board fails to prepare its recommendation to the Town Council within this time limit, or extensions thereof, the Planning Board shall be deemed to recommend approval of the application without conditions.
- (3) The Town Manager shall then forward his/her report and the Planning Board's recommendation to the Town Council at the next available public hearing scheduled for Special Use Permit applications.

(f) Public Hearing

- (1) After receiving the Town Manager's report and the Planning Board's recommendation or, if applicable, the expiration of the time limit prescribed in Subsection 4.5.3.(e)(2), the Town Council shall hold a hearing on the application at the next available regularly scheduled public hearing. The Town Council shall adopt a schedule of public hearings by resolution. Once the schedule is adopted, any amendment which reduces the number of hearings shall not become effective for at least 6 months after adoption of the amendment.

- (2) Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.
- (3) The Public Hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Town Council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses to avoid undue delay. All persons who intend to present evidence at the public hearing shall be sworn.
- (4) The applicant shall bear the burden of presenting evidence sufficient to establish that the proposed development will comply with the determinations required in Section 4.5.2.
- (5) A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

(g) *Town Manager's Report to Town Council*

- (1) After completion of the initial public hearing, the Town Manager and Town Attorney shall review the record of the public hearing and the Town Manager shall submit to the Town Council an analysis and his/her recommendation for action.
- (2) The Town Manager shall submit his/her report to the Town Council within thirty (30) days after completion of the public hearing, or within such further time consented to by written notice from the applicant or by Town Council resolution.
- (3) If the Town Manager fails to submit a recommendation to the Town Council within this time limit, or extensions thereof, his/her recommendation shall be the same as his/her preliminary recommendation.

(h) *Town Council Action*

- (1) The Town Council shall review the record of the public hearing, the Planning Board's recommendation, and the Town Manager's report and shall act on the application based on the findings required in Section 4.5.2. All findings shall be based on competent material and substantial evidence presented at the public hearing.
- (2) Action on the application shall be one of the following: (a) Approval; (b) Approval subject to conditions; or (c) Denial.

(i) *Effect of Denial or Withdrawal on Subsequent Applications*

When the Town Council has denied an application or the applicant has withdrawn his/her application by written notice after publication of the first public hearing notice required in Subsection 4.5.3(f), the Town Manager shall not accept another application for approval of the same or similar special use or planned development, affecting the same property or a portion thereof, until twelve (12) months have elapsed from the date of denial or withdrawal, as appropriate.

(j) *Amended Applications*

The applicant shall submit an amended application for review as an original application if he/she proposes, in the Town Manager's opinion, to substantially amend or modify his/her application after the Town Manager's review; but no modification(s) agreed to by the applicant as a result of requests or suggestions by the Town Manager, the Planning Board, or the Town Council shall require an amended or original application.

(k) *Notice of Decision and Issuance of Special Use Permit*

- (1) The Town Manager shall notify the applicant of the Town Council's decision in writing and shall file a copy of it with the Town's Planning Department.
- (2) If the application is approved or approved with conditions, the Town Manager shall issue the necessary Special Use Permit in accord with the action of the Town Council. The applicant shall record such permit in the office of the appropriate County Register of Deeds.
- (3) The Special Use Permit, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

(l) *Appeal of Decision*

The Town Council's decision on an application for a special use permit may be appealed to Superior Court within thirty (30) days of the decision.

(m) *Final Plan Approval*

- (1) The Town Manager shall not issue a Zoning Compliance Permit for development approved in a Special Use Permit unless and until such Special Use Permit has been recorded and the Town Manager has approved final plans for the development as a whole, or for any phase thereof. The Town Manager shall prescribe the form and content of such final plans.
- (2) Approval of final plans shall be based on compliance with all applicable regulations and requirements, including all conditions attached to the Special Use Permit.

(n) Issuance of Development Permits

After final plan approval, the Town Manager may issue Zoning Compliance Permits, Engineering Construction Permits, Building Permits, Sign Permits, and Certificates of Occupancy for development approved in a Special Use Permit, or an approved phase thereof, in the manner prescribed in Section 4.9, subject to compliance with the approved final plans and following additional requirements:

- (1) Prior to issuance of a Building Permit for any new structures, additions, and exterior renovations or alterations, detailed architectural elevations of such structures, additions, and renovations or alterations and a site lighting plan shall be submitted to and approved by the Community Design Commission; and
- (2) Prior to issuance of any Zoning Compliance Permit for development approved in a Special Use Permit, a detailed landscape plan for such development, or an approved phase thereof, shall be submitted to and approved by the Town Manager.

4.5.4 Modifications of Special Use Permits

- (a) The Town Manager is authorized to approve minor changes in the approved final plans as long as such changes continue to comply with the approving action of the Town Council and all other applicable requirements, but shall not have the authority to approve changes that constitute a modification of the Special Use Permit.
- (b) Any change requiring evidentiary support in addition to that presented at a public hearing on applications for the original Special Use Permit or subsequent Modifications of Special Use Permit shall constitute a modification of the Special Use Permit. Before making a determination as to whether a proposed action is a minor change or a modification, the Town Manager shall review the record of the proceedings on the original application for the Special Use Permit and subsequent applications for modifications of the Special Use Permit. The following shall constitute a modification of the Special Use Permit:
 - (1) A change in the boundaries of the site approved by the Town Council.
 - (2) A change from the use approved by the Town Council.
 - (3) An increase of five (5) percent or more in the floor area approved by the Town Council, unless proposed addition is 2,500 square feet of floor area or less, whether such addition is proposed at one time or over an extended period of time.
 - (4) An increase of five (5) percent or more in the number of parking spaces approved by the Town Council, whether such addition is proposed at one time or over an extended period of time.
 - (5) Substantial changes in the location of principal and/or accessory structures approved by the Town Council.

- (6) Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by the Town Council.
 - (7) Substantial changes in pedestrian and bicycle or vehicular access or circulation approved by the Town Council. Examples of substantial changes include, but are not limited to:
 - A. A change in trip distribution occurs that involves more than five percent (5%) of all projected trips; or
 - B. The change results in a reduction in the level of service (LOS) of a street link or intersection within one-quarter ($\frac{1}{4}$) of a mile from the boundaries of the proposed development.
 - (8) Substantial change in the amount or location of landscape screens approved by the Town Council shall constitute a modification.
- (c) If the proposed action is determined to be a modification, the Town Manager shall require the filing of an application for approval of the modification.
 - (d) The Town Manager shall prescribe the form(s) of applications as well as any other material he/she may reasonably require to determine compliance with this Article.
 - (e) An application for Modification of a Special Use Permit shall be reviewed in accord with the procedures established in Section 4.5.3.
 - (f) No modification shall be allowed to a special use permit issued in a conditional use zoning district unless the applicant accepts all of the requirements and conditions the Town Council proposes to impose on the modification. Acceptance of conditions by the applicant may be indicated at the Town Council hearing on the Special Use Permit Modification or by affidavit submitted prior to the Town Council taking action on the modification application.

4.5.5 Expiration and Revocation of Special Use Permit Approvals

(a) *Special Use Permit Binding on Land*

- (1) A Special Use Permit or Modification of Special Use Permit shall run with the land covered by the Permit or Modification. Once construction authorized by a Special Use Permit or Modification of Special Use Permit is started, no development other than that authorized by the Permit or Modification shall be approved on that land unless the Permit or Modification is first modified in accord with Section 4.5.4, or voided or revoked in accord with the provisions of this Section.

- (2) No Special Use Permit authorizing development of property within a conditional use district may be abandoned or revoked unless the property is first rezoned to a general use zoning district.

(b) Starting Time Limit

If the use, construction, or activity authorized by Town Council approval of an application for a Special Use Permit or Modification of Special Use Permit is not started within twenty-four (24) months of the date of approval or within such further time stipulated in the approval, the approval shall expire and any Town permit issued pursuant to the approval shall be void. The Town Manager shall determine whether the use, construction, or activity has started. The Town Manager may grant a single extension of the starting time limit for up to twelve (12) months, unless he/she determines that paramount considerations of health, the general welfare, or public safety require Town Council re-approval. In such instances the Town Manager shall require the application to be reviewed in accordance with the procedures set forth in Section 4.5.3.

(c) Completion Time Limit

- (1) If all construction and actions authorized or required by a Special Use Permit or Modification of Special Use Permit are not completed by the completion date stipulated in the Permit or Modification, the permit holder may request an extension of the completion time limit from the Town Manager. The Town Manager may grant a single extension of the time limit for up to twelve (12) months if he/she determines that:
 - A. the permit holder submitted the request within sixty (60) days of the completion date;
 - B. the permit holder has proceeded with due diligence and good faith; and
 - C. conditions have not changed so substantially as to warrant Town Council reconsideration of the approved development.
- (2) If all of the construction and actions authorized or required by a Special Use Permit or Modification of Special Use Permit are still not completed by the extended completion date granted by the Town Manager, the permit holder may, within 60 days of the revised completion date, request additional extensions of the completion time limit from the Town Council. The Town Council may grant extensions of the time limit if it makes the determinations required by (c)(1)(A) through (c)(1)(C), above.

(d) Abandonment of Special Use Permit

- (1) On request by the holder of a Special Use Permit or Modification of Special Use Permit, the Town Council shall approve the abandonment of the Permit or Modification if it determines that:

- A. no construction or activity authorized by the Permit has been started and the starting time limit has not yet expired; or
 - B. the development or use authorized by the Permit or Modification no longer requires a Special Use Permit, and all conditions of the Special Use Permit have been satisfied.
- (2) The permit holder shall submit a signed affidavit clearly stating the holder's intent to abandon the Permit or Modification.
 - (3) Any abandonment approved by the Town Council shall not become effective until the affidavit of abandonment is recorded in the office of the appropriate County Register of Deeds.

(e) Cessation of Use

If the use(s) authorized by a Special Use Permit or Modification of Special Use Permit ceases for a continuous period of twelve (12) months, the Permit or Modification shall automatically become void.

(f) Revocation of Special Use Permit

If any conditions of a Special Use Permit or Modification of Special Use Permit, including completion time limits, or requirements of this Chapter applicable to the Permit or Modification are violated, the Town Council may revoke or refuse to extend the Permit or Modification. The Town Council may reinstate a revoked Special Use Permit or Modification of Special Use Permit if it determines that: a) the holder of the revoked Permit or Modification submitted a request for reinstatement to the Town Manager within ninety (90) days of the revocation; b) the violations that were the cause of the revocation have been corrected; and c) the development fully complies with all conditions of the Permit or Modification and all applicable requirements of this Chapter. On request by the holder of a Special Use Permit or Modification of Special Use Permit, the Town Council may revoke the Permit or Modification if it determines that:

- (1) construction authorized by the Permit or Modification has been started and the completion time limit has not yet expired; and
- (2) the request is made in conjunction with an application for approval of a development other than that authorized by the Permit or Modification; and
- (3) the proposed development as approved by Town Council incorporates adequate consideration of the site's already disturbed land area in its design and previous commitments made under the Special Use process.

4.5.6 Permitted Modifications of Regulations

Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable special use regulations, general regulations, or other regulations in this Chapter, but the Town Council makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Town Council may make specific modification of the regulations in the particular case. Any modification of regulations shall be explicitly indicated in the Special Use Permit, or Modification of Special Use Permit.

4.5.7 Performance Standards During Construction

The special use permit approval shall include conditions for work during construction consistent with Section 5.15 of this Chapter.

4.5.8 Reservation of School Sites

Whenever a Special Use Permit or Special Use Permit Modification application is submitted for approval which includes part or all of a school site designated to be reserved in the Comprehensive Plan, the Town Manager shall immediately notify the Chapel Hill/Carrboro Board of Education, and the Board shall promptly decide whether it wishes the site to be reserved. If the Board does not wish to reserve the site, it shall so notify the Town Manager and no site shall be reserved. If the Board does wish to reserve the site, the Special Use Permit or Special Use Permit Modification shall not be approved without such reservation. A note indicating such reservation shall be recorded on a final plat. The Board shall then have 18 months beginning on the date of final approval of the Special Use Permit or Special Use Permit Modification within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board has not purchased or begun proceedings to condemn the site within 18 months, the owner may treat the land as freed of the reservation.

4.6 Subdivision

Purpose Statement: It is the intent of this Section to provide an orderly process for the division of land into lots or parcels for the purpose of sale to and/or building development by property owners. It is also this Section's intent to ensure that subdivided lots or parcels can be used safely to build on without danger to the health, safety, and general welfare of both their prospective (or "future") owners and of the Chapel Hill community, and that subdivisions are provided with and provide for adequate and efficient access and transportation, water, sewerage and other utilities, schools, parks, playgrounds, recreation, and other public requirements and facilities.

4.6.1 Applicability and Definition of "Subdivision"

The provisions of this Section apply to any "subdivision" as defined herein. A subdivision is any division of a tract or zoning lot into two (2) or more zoning lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future). It includes any division of land involving the dedication of a new street or a change in existing streets. The following divisions of land are not included in this definition and are not subject to this Article:

- (a) The combination or recombination of portions of previously subdivided and recorded lots, where the total number of lots is not increased and the resultant lots are equal to or exceed the standards set forth in this Section, and the Minimum Gross Land Area, Minimum Lot Width and Minimum Street Frontage Width standards of Section 3.8; or
- (b) The division of land into parcels greater than ten (10) acres in area, where no widening or opening of streets is involved; or
- (c) The public acquisition of strips of land for purpose of widening or opening streets; or
- (d) The division of a tract in single ownership whose entire net land area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards set forth in this Chapter, and the Minimum Gross Land Area, Minimum Lot Width and Minimum Street Frontage Width standards of Section 3.5.

In (a) above, the phrase, "previously subdivided and recorded" means under a recorded plat or other instrument of transfer containing a metes and bounds description if lots were created prior to the existence of applicable subdivision regulations, or under a validly approved and recorded plat if such lots were created after the existence of applicable subdivision regulations.

In (b) and (d) above, the phrases "where no street right-of-way dedication is involved" and "where no widening or opening of streets is involved" mean that adequate access to such lots is provided by an approved existing street (public or private) that meets the standards of the Design Manual without the need for additions or improvements to existing street rights-of-way or easements.

The word "subdivide" in relation to land refers to a subdivision subject to this Section.

4.6.2 Applicability

- (a) No land shall be subdivided, platted, or recorded, nor shall subdivided lots or parcels be sold, offered for sale, used, or occupied unless and until a final plat of the subdivision has been approved under this Article and has been recorded by the appropriate County Register of Deeds. The subdivision of land by use of metes and bounds descriptions in instruments of transfer is prohibited.
- (b) No lot or parcel resulting from a division of land excluded from the definition of subdivision in Section 4.6.1 shall be sold, offered for sale, used, or occupied until the Town Manager certifies that such division of land falls within one of the exclusions listed in Section 4.6.1.
- (c) No plat of any division of land within Chapel Hill's planning jurisdiction shall be filed or recorded by the County Register of Deeds unless it contains the Town Manager's certification that the division of land has been approved under this Article or is not subject to this Article.

- (d) Except where specifically exempted by this Article, no Zoning Compliance Permit shall be issued to develop any subdivided lot or parcel until a final plat of such subdivision has been approved and recorded under this Article.

4.6.3 Classification of Subdivision

Minor and major subdivisions are subject to different approval procedures.

(a) Minor Subdivision-Administrative Review

The Minor Subdivision-Administrative Review approval process is a one-step procedure involving Town Manager approval of a final plat. A “minor subdivision – administrative review” includes any subdivision pursuant to an approved Zoning Compliance Permit for a two-family or multi-family townhouse development, an approved Special Use Permit for a planned development, or an approved commercial subdivision.

(b) Minor Subdivision-Planning Board Review

The Minor Subdivision-Planning Board Review approval process is a one-step procedure involving Planning Board approval of a final plat. A minor subdivision eligible for Planning Board review is a subdivision not included in 4.6.3(a) that does not:

- (1) create more than four (4) lots from any one tract of land, whether such lots are created at one time or over an extended period of time; and
- (2) dedicate or improve any new street other than widening approved existing streets; and
- (3) extend a public water or sanitary sewerage system other than laterals to individual lots; and
- (4) install drainage improvements which would require easements through one or more lots to serve other lots.

(c) Major Subdivision

A “major subdivision” is any subdivision other than a minor subdivision. The Major Subdivision approval process is a two-step procedure involving Town Council approval of a preliminary plat and Town Manager approval of a final plat.

4.6.4.1 Procedures for Approval of Minor Subdivisions – Administrative Review

(a) Application Submittal Requirements

Applications for minor subdivision – administrative review approval shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) of applications as well as any other material it may reasonably require to determine compliance with this Article. Minor subdivision plats shall comply with the mapping requirements of Section 4.6.10. The Town Manager shall not accept an application unless it complies with such requirements. An incomplete application shall be returned to the applicant, with a notation of its deficiencies.

(b) Action on Application

- (1) When he/she accepts an application, the Town Manager shall evaluate the plat for compliance with all applicable regulations, including any applicable conditions of an approved Zoning Compliance Permit or Special Use Permit. He/she shall take action on an application based solely on his/her findings as to compliance with applicable regulations and conditions. He/she shall:
 - A. Approve, or
 - B. Approve subject to conditions, or
 - C. Deny, or
 - D. Refer to the major subdivision approval process, if it finds it to be a major subdivision proposal or if requested by the applicant, or
 - E. Refer to the minor subdivision – Planning Board review approval process, if it finds it to be a minor subdivision - Planning Board review proposal.
- (2) If the Town Manager refers the request to a major subdivision review, an amended application shall be submitted, as required in Section 4.6.5, below.
- (3) If the Town Manager refers the request to a minor subdivision – Planning Board review, an amended application shall be submitted, as required in Section 4.6.4.2 below.
- (3) The Town Manager may impose reasonable conditions on approval to ensure the subdivision complies with the intent and requirements of this Article.
- (4) The Town Manager shall take action within thirty (30) days of the acceptance of an application, 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 extensions thereof, shall result in the approval of the application as submitted.

(c) Amended Applications

The applicant shall submit an amended application for review as an original application if the applicant proposes to substantially amend or modify his/her application after its acceptance.

(d) Actions Subsequent to Decision

- (1) The Town Manager shall notify the applicant of the decision in writing and shall file a copy of the decision in the office of the Planning Department.
- (2) The Town Manager shall endorse approval on a reproducible mylar original of the final plat if he/she has approved an application or approves it with conditions. The applicant shall record such plat in the office of the appropriate County Register of Deeds. Approval of any minor subdivision plat is void if it is not properly recorded within thirty (30) days after the Town Manager's endorsement of approval. The Town Manager may extend this deadline provided the applicant has demonstrated a good faith effort to comply with the deadline, but for reasons beyond his/her control, fails to meet the requirements of the Register of Deeds for recordation within that period
- (3) The applicant shall submit a duplicate mylar copy of the approved final plat and a paper print of the recorded final plat to the Town's Planning Department within five (5) working days after the final plat is recorded.

(e) Appeal of Decision

The Town Manager's decision on a minor subdivision application may be appealed to the Board of Adjustment under Section 4.10.

4.6.4.2 Procedures for Approval of Minor Subdivisions- Planning Board Review

(a) Application Submittal Requirements

Applications for minor subdivision – Planning Board Review approval shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) of applications as well as any other material it may reasonably require to determine compliance with this Article. Minor subdivision plats shall comply with the mapping requirements of Section 4.6.10. The Town Manager shall not accept an application unless it complies with such requirements. An incomplete application shall be returned to the applicant, with a notation of its deficiencies.

(b) Action on Application

- (1) When he/she accepts an application, the Town Manager shall evaluate the plat for compliance with all applicable regulations, including any applicable conditions of an approved Zoning Compliance Permit or Special Use Permit. The Town

Manager shall forward his/her report to the Planning Board with a recommendation.

If the subdivision proposal property is located in an Historic District, the Town Manager shall submit to the Historic District Commission a written analysis of the application and his/her recommendation, prior to the Planning Board meeting. The Town Manager shall forward his/her report to the Historic District Commission at its next available regularly scheduled meeting. The Historic District Commission shall review the application and the Town Manager's report and shall submit a written recommendation to the Planning Board. The Historic District Commission shall prepare its recommendations within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to it or within such further time consented to by the applicant or by Town Council resolution. If the Historic District Commission fails to prepare its recommendation to the Planning Board within this time limit, or extensions thereof, the Historic District Commission shall be deemed to recommend approval of the application without conditions.

The Planning Board shall take action on an application based solely on its findings as to compliance with applicable regulations and conditions. The Planning Board shall:

- A. Approve, or
 - B. Approve subject to conditions, or
 - C. Deny, or
 - D. Refer to the major subdivision approval process, if it finds it to be a major subdivision proposal or if requested by the applicant.
- (2) If the Planning Board refers the request to a major subdivision review, an amended application shall be submitted, as required in Section 4.6.5, below.
- (3) The Planning Board may impose reasonable conditions on approval to ensure the subdivision complies with the intent and requirements of this Article.
- (4) The Planning Board shall take action within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to it, or within such further time consented to by written notice from the applicant or by Town Council resolution. If the Planning Board fails to render a decision within this time limit, or extensions thereof, the application is approved as submitted.

(c) Amended Applications

The applicant shall submit an amended application for review as an original application if the applicant proposes to substantially amend or modify his/her application after its acceptance.

(d) Actions Subsequent to Decision

- (1) The Town Manager shall notify the applicant of the Planning Board's decision in writing and shall file a copy of the decision in the office of the Planning Department.
- (2) The Town Manager shall endorse approval on a reproducible mylar original of the final plat if the Planning Board has approved an application or approves it with conditions. The applicant shall record such plat in the office of the appropriate County Register of Deeds. Approval of any minor subdivision plat is void if it is not properly recorded within thirty (30) days after the Town Manager's endorsement of approval. The Town Manager may extend this deadline provided the applicant has demonstrated a good faith effort to comply with the deadline, but for reasons beyond his/her control, fails to meet the requirements of the Register of Deeds for recordation within that period
- (3) The applicant shall submit a duplicate mylar copy of the approved final plat and a paper print of the recorded final plat to the Town's Planning Department within five (5) working days after the final plat is recorded.

(e) Appeal of Decision

The Planning Board's decision on a minor subdivision application may be appealed to the Board of Adjustment under Section 4.10.

4.6.5 Procedures for Approval of Major Subdivisions

(a) Preliminary Plat Approval

- (1) Application Submittal Requirements
 - A. Applications for major subdivision preliminary plat approval shall be filed with the Town Manager.
 - B. The Town Manager shall prescribe the form(s) of applications, as well as any other material he/she may reasonably require to determine compliance with this Article.
 - C. The Town Manager shall not accept an application unless it complies with such requirements. An incomplete application shall be returned to the applicant, with a notation of its deficiencies.
- (2) Town Manager's Analysis

When he/she accepts an application, the Town Manager shall cause representatives of the Town and such other agencies or officials as may be appropriate to determine if it conforms to the provisions of this Chapter and the following other regulations:

- A. The minimum gross land area, minimum lot width, and minimum street frontage width requirements of Section 3.8; and
 - B. The access and circulation requirements of Section 5.8 and the Design Manual.
- (3) Preliminary Conference with Applicant
- A. The Town Manager shall notify the applicant, in writing, of the proposed subdivision's deficiencies. The Town Manager shall also notify the applicant of his/her willingness to discuss alternatives to correct those deficiencies.
 - B. If the applicant joins in such discussions, the application may be modified, further discussions may be held, or additional information may be requested by the Town Manager.
- (4) Town Manager's Report to Planning Board
- A. The Town Manager shall submit to the Planning Board a written analysis of the application and his/her recommendation.
 - B. If the applicant does not join in preliminary conferences with the Town Manager, the report shall be prepared within twenty-five (25) working days after the application is accepted, or within such further time consented to by the applicant or by Town Council resolution. If the Town Manager fails to prepare a report to the Planning Board within this time limit, or extensions thereof, the application is recommended without conditions.
 - C. If the applicant participates in preliminary conferences with the Town Manager, the Manager will prepare his/her report to the Planning Board when further conferences appear unnecessary. No time limits shall apply to the Town Manager's review when the applicant joins in preliminary conferences. However, the applicant may require the Town Manager to submit the application and his/her report to the Planning Board whenever the applicant wishes to end discussions with him/her.
 - D. The Town Manager shall forward his/her report to the Planning Board at its next available regularly scheduled meeting.
- (5) Planning Board Review
- A. The Planning Board shall review the application and the Town Manager's report and shall submit a written recommendation to the Town Council.
 - B. The Planning Board shall prepare its recommendations within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to it or within such further time consented to by the applicant or by Town

Council resolution. If the Planning Board fails to prepare its recommendation to the Town Council within this time limit, or extensions thereof, the Planning Board shall be deemed to recommend approval of the application without conditions.

- C. If the Planning Board recommends approval of the application with conditions, the applicant may amend his/her application to conform to all or some of the conditions, provided the Town Manager reviews the amended application for compliance with applicable regulations and certifies that the amendments conform to the conditions of the Planning Board recommendation. In such cases, the Town Manager may amend his/her report to conform to any or all of the Planning Board's recommendations. The Town Manager shall then forward his/her report and the Planning Board's recommendation to the Town Council at the Town Council's next available regularly scheduled public hearing.

(6) Town Council Review

- A. After receiving the Town Manager's report and the Planning Board's recommendation or, if applicable, the expiration of the time limit prescribed in Subsection 4.6.5(a)(5), the Town Council shall consider the application at its next regularly scheduled public hearing.
- B. All interested persons shall be given the opportunity to speak and to ask questions. The Town Council may place reasonable and fair limitations on comments, arguments, and questions to avoid undue delay.
- C. The applicant shall bear the burden of establishing that he/she is entitled to approval of his/her application.

(7) Town Council Action

The Town Council shall act on the application after reviewing the application, the Town Manager's report, the Planning Board recommendation, and public comment thereon. It shall base its action on its findings as to conformity with all applicable regulations listed in this Chapter. The Town Council shall:

- A. Approve the application, or
- B. Approve subject to reasonable conditions necessary to ensure compliance with applicable regulations, or
- C. Deny the application.

(8) Amended Applications

Except as permitted in subsection (e) of this Section, the applicant shall submit an amended application for review as an original application if he/she proposes to substantially amend or modify his/her application after the Town Manager's review.

(9) Actions After Decision

A. The Town Manager shall notify the applicant of the Town Council's decision in writing and shall file a copy with the Town's Planning Department.

B. If the application is approved or approved with conditions, the applicant shall subsequently submit final plans to the Town Manager for approval, in a form and content prescribed by the Town Manager. Approval of such plans shall be based on compliance with all applicable regulations and requirements, including all conditions attached to the Preliminary Plat approval. After final plan approval, the Town Manager may issue a Zoning Compliance Permit.

C. Except for the above improvements, no Zoning Compliance Permit shall be issued to develop any lot or parcel shown on the approved preliminary plat until a final plat showing such lot or parcel is approved and recorded under this Article.

(10) Expiration of Preliminary Plat Approval

A. Preliminary plat approval for a major subdivision shall be effective for one year from the date of approval. After that time the applicant must submit a new application. The Town Manager may re-approve the application unless he/she determines that paramount considerations of health, the general welfare, or public safety require Town Council re-approval. In such instances the Town Manager shall require the application to be reviewed in accordance with the procedures set forth in subsections (1) through (7) of this Section.

B. No application for final plat approval shall be accepted or approved for any portion of a subdivision for which preliminary plat approval has expired. If final plat approval for any lot shown on an approved preliminary plat has not been obtained before the preliminary plat approval expires, a new application for approval of a preliminary plat showing the lot must be approved under then-applicable regulations before an application for final plat approval of such lot can be accepted.

(11) Appeal of Decision

The Town Council's decision on an application for major subdivision preliminary plat approval may be appealed to Superior Court within thirty (30) days of Town Council action.

(b) Final Plat Approval

(1) Application Submittal Requirements

- A. Applications for final plat approval shall be filed with the Town Manager. The Town Manager shall prescribe the form(s) of applications, as well as any other material he/she may reasonably require to determine compliance with this Article.
- B. The Applicant shall submit an approved, unexpired preliminary plat with the application for a final plat approval.
- C. As part of an application for final plat approval, the applicant shall:
 - 1. Certify that all improvements (streets, alleys, bikeways, pedestrian and bicycle ways, utilities, storm drainage facilities, street signs, and recreation areas and facilities for common use) approved as part of the preliminary plat approval and serving the lots shown on the final plat have been completed and the Town Manager has certified completion thereof; or
 - 2. That performance guarantees ensuring the satisfactory completion of any uncompleted improvements have been posted; or
 - 3. Certify that the subdivision shown on the final plat is subject to United States Department of Housing and Urban Development regulations that ensure satisfactory completion of any uncompleted improvements.
- D. If a neighborhood or homeowners' association, or similar legal entity, will maintain and control any improvements, the application for final plat approval shall also contain proposed articles of incorporation and by-laws of the association or similar legal entity. Articles of incorporation shall be submitted in the form in which they will be filed with the North Carolina Secretary of State.

(2) Town Manager Action

- A. When he/she accepts an application, the Town Manager shall determine if the final plat and application conform to all applicable regulations and to the approved and valid preliminary plat, including all conditions of such approval.

- B. The Town Manager shall base his/her action on an application solely on findings as to compliance with applicable regulations and the preliminary plat approval. The Town Manager shall:
1. Approve the application, or
 2. Approve the application subject to reasonable conditions necessary to ensure compliance with applicable regulations and conditions, or
 3. Deny the application.
- C. Such action shall be taken within twenty-five (25) working days of the acceptance of an application, or within such further time consented to by written notice from the applicant or by Town Council resolution. If the Town Manager fails to render a decision within this time limit, or extensions thereof, the application is approved as submitted.

(3) Amended Applications

The applicant shall submit any amended application for review as an original application if he/she proposes to substantially amend or modify his/her application after its acceptance.

(4) Actions Subsequent to Decision

- A. The Town Manager shall notify the applicant of his/her decision in writing and shall file a copy of it with the Town's Planning Department.
- B. If the application is approved or approved with conditions, the Town Manager shall endorse his/her approval on a reproducible mylar original of the final plat. The applicant shall record the final plat in the office of the appropriate County Register of Deeds. Approval of any final plat is void if it is not properly recorded within thirty (30) calendar days after the Town Manager's endorsement of approval. The Town Manager may extend this deadline provided the applicant has demonstrated a good faith effort to comply with the deadline, but for reasons beyond his/her control, fails to meet the requirements of the Register of Deeds for recordation within that period. Such plat shall conform to the drawing specifications, certification and endorsement requirements of Sections 4.6.10 and 4.6.11.
- C. The applicant shall submit a duplicate mylar copy of the approved plat and a paper print of the recorded final plat filed with the Register of Deeds to the Town's Planning Department within five (5) working days after the plat is recorded.

- D. Upon recordation of a final plat, the applicant or applicant's successors in interest of the subdivided land shall be responsible for maintaining in a safe and usable condition all approved improvements until they are accepted for maintenance and control by an appropriate public body or an incorporated neighborhood or homeowners' association or similar legal entity.

(5) Appeal of Decision

The Town Manager's decision on a final plat approval application may be appealed to the Board of Adjustment under Section 4.10 of this Chapter.

4.6.6 Performance Standards During Construction

The preliminary plat approval shall include conditions for work during construction consistent with Section 5.15 of this Chapter.

4.6.7 Neighborhood or Homeowners' Associations

Where neighborhood or homeowners' associations, or similar legal entities, will maintain and control any improvements (streets, alleys, bikeways, pedestrian and bicycle ways, utilities, storm drainage facilities, street signs, and recreation areas and facilities for common use) approved as part of subdivision approval, they shall be established so that:

- (a) Binding arrangements to establish the association or similar legal entity are made before any lot in the subdivision is sold or any building occupied;
- (b) The association or similar legal entity has clear legal authority to maintain and exercise control over the improvements;
- (c) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and control of the improvements; and
- (d) Subdivisions shall not include covenants or other conditions of sale that restrict or prohibit the use, installation or maintenance of solar collection devices.

4.6.8 Standards of Practice for Land Surveying

All horizontal and vertical survey controls established within the Chapel Hill Planning Jurisdiction and all surveys submitted to the Town of Chapel Hill for review and approval shall conform/comply with the latest revision of North Carolina General Statute 89C and the Standards of Practice for Land Surveying in North Carolina as established by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. Additionally, all plats submitted for review and approval shall conform the latest revision of North Carolina General Statute 47-30.

4.6.9 Reserved

4.6.10 Specifications for Drawings

(a) *Applicability*

The requirements of this Section apply to the format of drawings.

(b) *Preliminary Plat*

The preliminary sketch shall be drawn to a scale of not less than one hundred (100) feet to the inch nor more than twenty (20) feet to the inch. It shall show the following:

- (1) Title data. Name of subdivision, the names and addresses of the owner or owners, name of designer of the plat, scale, date, approximate north point, and in large letters the words, "PRELIMINARY PLAT."
- (2) Existing data. Property lines, street lines and names, principal buildings, water mains, sanitary sewers, storm drains, water courses and bridges, parks, playgrounds, public open space, recreation areas, public easements, railroads and spurs, names of adjacent subdivisions, owners of adjacent unsubdivided tracts, town limit lines, and planning district lines, both on the land to be subdivided and within five hundred (500) feet thereof; and an inset sketch map showing the subdivision's location in relation to the Town and to principal highways and streets in the Chapel Hill area.
- (3) Data relating to subdivision. Names, locations and other dimensions of proposed streets, alleys, cross walkways, lots, easements, building lines, parks, playgrounds, and other recreational areas, including notations regarding to whom such areas are dedicated, and a copy of any proposed deed restrictions or restrictive covenants. Contours at intervals five (5) feet or less, referred to sea level datum will be provided, except that in the case of a small subdivision on relatively level land, the Town Manager may waive this provision. Profiles of proposed streets, showing natural and finished grades, drawn to a horizontal scale of not less than one hundred (100) feet to the inch and a vertical scale of not less than ten (10) feet to the inch may be required by the Town Manager. A statement describing the water supply and sewage disposal facilities proposed to be installed in the subdivision shall be submitted. If installation of septic tanks is proposed, an analysis of the county health department tests required shall accompany the subdivision sketch. The size and location of all proposed water mains shall be shown on the sketch if water will be furnished by Orange Water and Sewer Authority (OWASA).
- (4) Drainage plan data. Size of off-site drainage areas in acres; existing gullies or waterways proposed to be used, indicating adequacy to handle the design flows; all proposed drainage easements; location size, and slopes of all pipes; location, size, and proposed design of all new ditches; and erosion control measures where needed.

- (5) Floodway data. The boundaries of both the floodway and the floodway fringe zone, as shown on maps entitled Flood Boundary and Floodway Map, U.S. Dept. of Housing and Urban Development dated February 9, 1980, and as subsequently revised, and the boundary of the Resource Conservation District shall be shown clearly.

(c) Final Plat

The final plat shall be drawn in black ink upon mylar or tracing cloth to a scale of not less than one hundred (100) feet to the inch nor more than twenty (20) feet to the inch. It shall show the following:

- (1) Title and documentation data. Name of subdivision, the Town, the name of the licensed engineer or surveyor under whose supervision the plat was prepared; the date of the plat; the scale and north point, and all endorsements and certifications provided for in Section 4.6.11.
- (2) Data relating to subdivision. Lines and names of all streets; lines of all alleys, cross-walkways, lots, easements, recreational areas, and other areas to be devoted to common use, with notes stating clearly their proposed use, any limitations and the person(s) or entity responsible for continued maintenance, Town boundaries; building lines, block and lot numbers; metes and bounds survey information sufficient to determine readily on the ground the location of every street, alley, and cross-walkway, lot line, boundary line, block line, easement line, and building line; the radius central angle, and tangent distance for both street lines of curved streets, the locations and types of all permanent monuments; the names of subdivisions and streets adjoining the platted subdivision; and designation of all streets within the subdivision as either "public" or "private."
- (3) Easements. Any required easements shall be shown clearly and shall be accompanied by a metes and bounds description.
- (4) Floodway data. The boundaries of both the floodway and the floodway fringe zone, as shown on the maps entitled Flood Boundary and Floodway Map, U.S. Dept. of Housing and Urban Development, dated February 9, 1980, and as subsequently revised, and the boundary of the Resource Conservation District shall be shown clearly.
- (5) All streets intended for future extension either within or beyond the boundaries of the subdivision shall clearly be indicated on the plat, by the words "subject to future extension".

(d) Detailed Engineering Construction Permits - Final Plat

All final Engineering Construction Permits for public improvements, including but not limited to bridges, culverts, headwalls, endwalls, earthwork (cut or fill), grading, paving (including subgrade preparation, base and surface), sidewalks, curbs and gutters, median crossings, guardrails, street signs, storm drainage, water distribution and sewage collection systems, shall be submitted to the Town Manager for review and approval with or prior to the submittal of the

final plat. The Town Manager shall prescribe the form(s) for the plans and for other materials he/she may reasonably require to make his/her decision.

4.6.11 Certificates and Endorsements on Final Plat

(a) Certificate of Survey and Accuracy

The final plat shall be made under the supervision of a surveyor or engineer licensed to practice in the State of North Carolina. The plat shall contain a certificate of survey and accuracy which meets the requirements for registration of G.S. Section 47-30.

(b) Certificate of Dedication and Maintenance

The following shall be printed on the final plat over the signature of the owner(s):

“The undersigned party, being duly sworn, certifies that he is the owner or duly authorized representative of the owner of the property designated on this plat as described below, and hereby freely dedicates all rights-of-way, easements, streets, recreation area, open space, common area, utilities, and other improvements to public or private common use as noted on this plat, and further assumes full responsibility for the maintenance and control of said improvements until they are accepted for maintenance and control by an appropriate public body or, by an incorporated neighborhood or homeowners' association or similar legal entity.”

Description/reference to lots shown on this plat and covered by this certificate: *(insert list of lot numbers or other clear identification of lots covered by this certification)*

_____ Date: _____

(c) Certificate of Improvements

If the required improvements are completed prior to the submittal of the final plat, the following certificate shall appear on the plat over the signature of the Town Manager:

"The Town Manager hereby certifies that all improvements required by the Chapel Hill Land Use Management Ordinance have been installed as specified by the approved preliminary plat for _____ Subdivision and that said improvements comply with Town specifications."

_____ Date _____
Town Manager

If the required improvements are not completed prior to the submittal of the final plat and their completion is not ensured by regulations applicable to developments financed by the U.S. Department of Housing and Urban Development. The following certificate shall appear on the plat over the signature of the Town Manager:

"The Town Manager hereby certifies that a surety bond of a satisfactory amount has been posted with the Town of Chapel Hill which surety guarantees that all public improvements will be completed as specified by the approved Preliminary Plat for _____ Subdivision within _____ days unless affirmatively extended by the Town Manager. Notice will be duly recorded with the Register of Deeds if and when said surety is amended or extended prior to completion of all public improvements for which it was posted."

Town Manager

Date

(d) Town Manager Endorsement

The plat shall show the following form for Town Manager endorsement:

Provided that this plat be recorded within 30 days of final approval; Approved by

Town Manager _____

Date: _____

(e) Notary Public Required

All certification and endorsement signatures on the final plat except that of the Town Manager, representatives of other governmental agencies and public utilities, and licensed surveyors shall be signed under oath and shall be notarized by the statement of a Notary Public entered on the final plat.

4.6.12 As-Built Drawings of Improvements

- (a) Digital construction drawings shall be submitted in DXF format on compact disk or compatible media, or alternate format, showing the as-built elevation and location of all improvements of the subdivision including all underground utilities shall be certified by a registered engineer or surveyor and submitted to the Town Manager.
- (b) When improvements are completed prior to final plat approval, the as-built drawings shall be submitted with the application for final plat approval. Where a surety bond is posted in lieu of completion of improvements, as-built drawings shall be submitted prior to release of the bond. The bond shall not be released until these plans are approved by the Town Manager.

4.6.13 Reservation of School Sites

Whenever a subdivision application is submitted for approval which includes part or all of a school site designated to be reserved in the Comprehensive Plan, the Town Manager shall immediately notify the Chapel Hill/Carrboro Board of Education, and the Board shall promptly

decide whether it wishes the site to be reserved. If the Board does not wish to reserve the site, it shall so notify the Town Manager and no site shall be reserved. If the Board does wish to reserve the site, the subdivision shall not be approved without such reservation. A note indicating such reservation shall be recorded on a final plat. The Board shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board has not purchased or begun proceedings to condemn the site within 18 months, the owner may treat the land as freed of the reservation.

4.7 Site Plan Review

4.7.1 Applicability

Site plan review and approval by the Planning Board shall be required prior to issuance of a Zoning Compliance Permit for any development or change in use subject to a Zoning Compliance Permit (as described in Section 4.9), with the following exceptions:

- (a) Any development of a single or two-family dwelling on a zoning lot, or any uses accessory thereto;
- (b) Expansion of development previously existing within a zoning lot may be reviewed and approved by the Town Manager if it would result in:
 - (1) Addition of not more than fifteen (15) percent of previously existing floor area, or 2,500 square feet of floor area, whichever is greater;
 - (2) Addition of not more than fifteen (15) percent of previously existing parking spaces, or 10 parking spaces, whichever is greater; and
 - (3) An increase of not more than fifteen (15) percent in the amount of land cleared for non-agricultural development, or 10,000 square feet of new land clearing, whichever is greater;
- (c) Any sign;
- (d) Any development pursuant to an approved Certificate of Appropriateness or Special Use Permit including Special Use Permits that are no longer necessary and have therefore been abandoned, provided the Town Manager finds that no modifications are proposed to the plans and conditions in the area have not changed significantly;
- (e) Any of the following changes in use:
 - (1) to another use in the same use group;
 - (2) from use group C to use group B and/or use group A; or
 - (3) from use group B to use group A;

provided that any such change does not involve development other than that exempted above; or

- (f) Any development of a Solid Waste Management Facility on a zoning lot.

For development applications proposing development as described in (a)-(f) above, the Town Manager shall take action provided that the development proposal, in the opinion of the Town Manager, does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, or lighting, and that such existing site elements comply with the applicable provisions of this Chapter.

4.7.2 Procedures for Site Plan Review by Planning Board

(a) Application Submittal Requirements

Applications for Site Plan review shall be submitted to the Town Manager. The Town Manager shall prescribe the form(s) on which applications are made. In the case of applications involving site plan review, applications shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner in connection with the application. If the applicant or property owner listed on an application involving site plan review is an entity other than an individual, the application shall also include detailed information regarding the principals of the entity. The Town Manager shall prescribe any other material that may reasonably be required to determine compliance with this Chapter, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such submittal requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

(b) Action on the Application

- (1) On receipt of a complete application, the Town Manager shall cause an analysis to be made by qualified representatives of the Town and such other agencies or officials as appropriate to determine compliance with applicable provisions of this Chapter and any applicable conditions of an approved Certificate of Appropriateness. The Town Manager shall submit to the Planning Board a report of his or her analysis of the application. The Planning Board shall review the application and the Town Manager's report and shall take final action on the application.
- (2) Final action on an application shall be based solely on findings as to compliance with all applicable provisions of this Chapter, including all applicable conditions of an approved Certificate or Appropriateness, and shall include one of the following:
 - A. Approval of application; or
 - B. Approval of application subject to reasonable conditions necessary to ensure compliance with applicable regulations and conditions; or
 - C. Denial of application.

- (3) The Planning Board may impose such reasonable conditions on an approval as will ensure compliance with applicable regulations.
- (4) In the case of final action by the Planning Board, the Town Manager shall submit to the Planning Board a written analysis of the application and his/her recommendation.
- (5) If the applicant does not join in preliminary conferences with the Town Manager, the report shall be prepared within twenty-five (25) working days after the application is accepted, or within such further time consented to in writing by the applicant or by Town Council resolution. If the Town Manager fails to prepare a report to the Planning Board within this time limit, or extensions thereof, the application is recommended without conditions.
- (6) If the applicant participates in preliminary conferences with the Town Manager, the Town Manager will prepare his/her report to the Planning Board when further conferences appear unnecessary. No time limits shall apply to the Town Manager's review when the applicant joins in preliminary conferences. However, the applicant may require the Town Manager to submit the application and his/her report to the Planning Board whenever the applicant wishes to end discussions with him/her. In such case, the Town Manager shall forward his/her report to the Planning Board at the next available regularly scheduled meeting.
- (7) The Planning Board shall take action within thirty-five (35) days of the meeting at which a complete application is accepted and the Town Manager's report thereon is submitted to it or within such further time consented to in writing by the applicant or by Town Council resolution. Failure of the Planning Board to reach a decision within the prescribed time limit, or extensions thereof, shall result in the approval of the application as submitted.

4.7.3 Actions Subsequent to Decision

In the case of approval or approval with conditions, the applicant shall subsequently submit final plans to the Town Manager for approval, in a form and content prescribed by the Town Manager. Approval of such plans shall be based on compliance with all applicable regulations and requirements, including all conditions attached to the Site Plan Approval. After final plan approval, the Town Manager may issue a Zoning Compliance Permit.

4.7.4 Appeal of Decision

A decision by the Planning Board in granting or denying site plan approval may be appealed to the Board of Adjustment in accord with the provisions of Section 4.12 of this Chapter.

4.7.5 Minor Changes to Approved Site Plans

The Town Manager may approve minor changes to plans approved under site plan review as long as such changes continue to comply with the approving action of the Planning Board and all other applicable requirements. The Town Manager shall not have the authority to approve any substantial changes to plans approved under site plan review unless such changes are specifically required by a condition of approval. If a substantial change is proposed, the Town Manager shall require the filing of an application for approval of the modification. An application for Modification of a Zoning Compliance Permit shall be reviewed in accord with the procedures established in Sections 4.7.1 and 4.7.2.

4.7.6 Expiration of Site Plan Review Approval

(a) Starting Time Limit

If the use, construction, or activity authorized by approval of an application for a Zoning Compliance Permit or Modification of Zoning Compliance Permit is not started within twelve (12) months of the date of approval, or within such further time stipulated in the approval, the approval shall expire and any Town permit issued pursuant to the approval shall be void. The Town Manager may grant a single extension of the starting time limit for up to twelve (12) months, unless he/she determines that paramount considerations of health, the general welfare, or public safety require Planning Board re-approval. The Town Manager shall determine whether the use, construction, or activity has started.

(b) Completion Time Limit

If all construction and actions authorized or required by a Zoning Compliance Permit or Modification of Zoning Compliance Permit are not completed by the completion date stipulated in the Permit or Modification, the permit holder may request an extension of the completion time limit from the Town Manager. The Town Manager may grant extensions of the time limit for periods of up to twelve (12) months if he/she determines that: a) the permit holder submitted the request within sixty (60) days of the completion date; b) the permit has proceeded with due diligence and good faith; and c) conditions have not changed so substantially as to warrant reconsideration of the approved development. The Town Manager shall determine whether or not all construction and actions authorized or required have been completed.

4.7.7 Revocation of Site Plan Review Approval

- (a) If any conditions of a Zoning Compliance Permit or Modification of Zoning Compliance Permit, including completion time limits, or requirements of this Chapter applicable to the Permit or Modification are violated, the Town Manager may revoke the Permit or Modification.
- (b) The Town Manager may reinstate a revoked Zoning Compliance Permit or Modification of Zoning Compliance Permit if he/she determines that: a) the holder of the revoked Permit or Modification submitted a request for reinstatement within ninety (90) days of the revocation; b) the violations that were the cause of the revocation have been corrected; and c) the development fully complies with all conditions of the Permit or Modification and all applicable requirements of this Chapter.

4.7.8 Reservation of School Sites

Whenever a Site Plan Review application is submitted for approval which includes part or all of a school site designated to be reserved in the Comprehensive Plan, the Town Manager shall immediately notify the Chapel Hill/Carrboro Board of Education, and the Board shall promptly decide whether it wishes the site to be reserved. If the Board does not wish to reserve the site, it shall so notify the Town Manager and no site shall be reserved. If the Board does wish to reserve the site, the Site Plan Review shall not be approved without such reservation. A note indicating such reservation shall be recorded on a final plat. The Board shall then have 18 months beginning on the date of final approval of the Site Plan Review application within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board has not purchased or begun proceedings to condemn the site within 18 months, the owner may treat the land as freed of the reservation.

4.8 Master Land Use Plan

Purpose Statement: It is the intent that the development and approval of a Master Land Use Plan would permit greater flexibility in the design and development of tracts of land twenty (20) acres or greater in size; and therefore promote and encourage more creative and imaginative design while conserving the value of land. This process is intended to provide a procedure which can relate to type, design and layout of residential, commercial and office development to a particular site in a general way, providing the basis for subsequent, more detailed development plans and applications through the Town's Special Use Permit Process.

It is the intent of this Chapter that all Master Land Use Plans shall demonstrate a high quality of overall site and building design. The criteria and procedures established in this Section ensure that the design and construction of site elements include appropriate consideration of the relationship and balance among site elements, the relationship of the development to natural features, neighboring developments, and access and circulation systems, retention of natural vegetation, minimal alteration of natural topography, mitigation of erosion and sedimentation, mitigation of stormwater drainage and flooding, arrangement and orientation of buildings and amenities in relation to each other and to neighboring developments and streets, landscaping, preservation or enhancement of vistas, and mitigation of traffic impacts.

4.8.1 Definition and Applicability

The Master Land Use Plan conveys the general intent and system of development. It is a conceptual plan that illustrates and defines land use areas for residential, office, commercial, open space and special facilities or other land uses. General circulation patterns, both vehicular and pedestrian and bicycle, are identified and indicated on the conceptual plan. Master Land Use Plans may be prepared for development tracts of twenty (20) acres or more.

4.8.2 Master Land Use Plan Design Criteria

No Master Land Use Plan shall be approved unless the proposed development would:

- (a) Maintain the public health, safety, and general welfare;
- (b) Maintain or enhance the value of contiguous property, or be a public necessity; and
- (c) Conform to the Comprehensive Plan.

4.8.3 Procedures for Approval of Master Land Use Plan

(a) Application Submittal Requirements

- (1) Applications for Master Land Use Plan approval shall be filed with the Town Manager. The Town Manager shall prescribe the form(s) of applications as well as any other material he/she may reasonably require to determine compliance with this Article. The applicant will be required to demonstrate that the proposed development conforms to all provisions of this Chapter, and is consistent with the Town's Comprehensive Plan.
- (2) No application shall be accepted by the Town Manager unless it complies with such submittal requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

(b) Action on the Application

On receipt of a complete application, the Town Manager shall cause an analysis to be made by qualified representatives of the Town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this Chapter and any applicable conditions of any approved Special Use Permit or Certificate of Appropriateness.

(c) Preliminary Conference with the Applicant

- (1) The Town Manager shall notify the applicant, in writing, of any proposed Master Land Use Plan's deficiencies. The Town Manager shall also notify the applicant of his/her willingness to discuss alternatives to correct those deficiencies. If the applicant joins in such discussions, the application may be modified, further discussions may be held, or additional information may be requested by the Town Manager.
- (2) If the applicant participates in preliminary conferences with the Town Manager, the Town Manager will prepare his/her report to the Planning Board when further conferences appear unnecessary. No time limits shall apply to the Manager's review when the applicant joins in preliminary conferences. However, the applicant may require the Town Manager to submit the application and his/her report to the Planning Board whenever the applicant wishes to end discussions with him/her.

- (3) If the applicant does not join in preliminary conferences with the Town Manager, the report shall be prepared within thirty-five (35) working days after the application is accepted, or within such further time extensions consented to by the applicant or by Town Council resolution. If the Town Manager fails to prepare a report to the Planning Board within this time limit, or extensions thereof, the Town Manager's recommendation to the Planning Board shall be deemed to be one of approval without conditions.

(d) *Town Manager's Report to the Planning Board and the Town Council*

The Town Manager shall submit to the Planning Board a written analysis of the application and his/her recommendation.

(e) *Planning Board Review*

The Planning Board shall review the application and the Town Manager's report and shall submit a written recommendation to the Town Council. The Planning Board shall base its recommendation on its determination of whether or not the application conforms to all applicable provisions of this Chapter, and whether or not the application is consistent with the Comprehensive Plan. The Planning Board shall prepare its recommendations within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to it or within such further time consented to in writing by the applicant or by Town Council resolution. If the Planning Board fails to prepare its recommendation to the Town Council within this time limit, or extensions thereof, the Planning Board shall be deemed to recommend approval of the application without conditions. If the Planning Board recommends approval of the application with conditions, the applicant may amend his/her application to conform to all or some of the conditions, provided the Town Manager reviews the amended application for compliance with applicable regulations and certifies that the amendments conform to the conditions of the Planning Board recommendation. In such cases, the Town Manager may amend his/her report to conform to any or all of the Planning Board's recommendations. The Town Manager shall then forward his/her report and the Planning Board's recommendation to the Town Council at the next available Public Hearing scheduled for Master Land Use Plan applications.

(f) *Public Hearing*

After receiving the Town Manager's report and Planning Board's recommendation or, if applicable, the expiration of the time limit prescribed in Subsection (e), above, the Town Council shall hold a hearing on the application at the next available regularly scheduled Public Hearing. Notice of the date, time, and place of the Public Hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing. The Public Hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Town Council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses to avoid undue delay. All persons who intend to present evidence at the Public Hearing shall be sworn.

The applicant shall bear the burden of presenting evidence sufficient to establish persuasively that the proposed development will comply with the criteria established in Section 4.8.2 and this Chapter. A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

(g) Town Council Action

The Town Council shall act on the application after reviewing the application, the Town Manager's report, the Planning Board recommendation, and public comment thereon. It shall base its action on its findings as to conformity with all applicable regulations of the Land Use Management Ordinance. Its action shall be one of the following:

- (1) Approval of application, or
- (2) Approval of application subject to reasonable conditions necessary to ensure compliance with applicable regulations and conditions, or
- (3) Denial of application.

(h) Amended Applications

Except as permitted in subsection (c), above, the applicant shall submit an amended application for review as an original application if he/she proposes to substantially amend or modify his/her application after the Town Manager's review.

(i) Actions After Decision

The Town Manager shall notify the applicant of the Town Council's decision in writing and shall file a copy with the Town's Planning Department. If the application is approved or approved with conditions, the Town Manager shall issue the necessary Master Plan Approval in accord with the action of the Town Council. The applicant shall record such approval in the office of the appropriate County Register of Deeds. The Master Land Use Plan, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs. If the Master Land Use Plan is approved, or approved with conditions, the Town Manager may then accept applications for development under a Special Use Permit.

(j) Expiration of Master Land Use Plan Approval

If an application for development of at least one phase has not been accepted by the Town Manager within two (2) years of the date of approval of the Master Land Use Plan, the approval shall automatically expire. After that time the applicant may resubmit the original application. The Town Manager may re-approve that application unless he/she determines that paramount considerations of health, the general welfare, or public safety require the application to be reviewed in accordance with the procedures set forth in subsections (a) through (h), above. The Town Manager may re-approve the application only once, for a period of twelve (12) months.

(k) Minor Changes and Modifications of Master Land Use Plan

- (1) The Town Manager is authorized to approve minor changes and changes in the ordering of phases in the approved Master Plan as long as such changes continue to be in compliance with the approving action of the Town Council and all other applicable requirements, but shall not have the authority to approve changes that constitute a modification of the Master Plan. Before making a determination as to whether a proposed action is a minor change or a modification, the Town Manager shall review the record of the proceedings on the original application for the Master Land Use Plan and subsequent applications for modifications of Master Land Use Plan. The following shall constitute a modification of the Master Land Use Plan:
 - A. A change in the boundaries of the site approved by the Town Council;
 - B. A change from the use(s) approved by the Town Council;
 - C. A change in the floor area or number of parking spaces approved by the Town Council by at least five percent (5%);
 - D. Changes in pedestrian and bicycle or vehicular access or circulation approved by the Town Council which:
 1. Change trip distribution involving more than five percent (5%) of all projected trips; or
 2. Reduce the level of service (LOS) of a street link or intersection within one-quarter ($\frac{1}{4}$) of a mile from the boundaries of the proposed development.”
 - E. Substantial change in the amount or location of landscaped and open areas approved by the Town Council.
- (2) If the proposed action is determined to be a modification, the Town Manager shall require the filing of an application for approval of the modification.
- (3) The Town Manager shall prescribe the form(s) of applications as well as any other material he/she may reasonably require to determine compliance with this Article.
- (4) An application for Modification of a Master Land Use Plan shall be reviewed in accord with the procedures established in subsections (a) through (h), above.

(l) Relation to Special Use Permit

- (1) Once a Master Land Use Plan or a Modification of a Master Land Use Plan has been approved for a tract of land, no further development approval shall be granted unless it is consistent with the Master Plan.

- (2) If a Master Land Use Plan is approved for a tract of land, and an application for a Special Use Permit is subsequently received, then the Special Use Permit application must be consistent with the Master Plan. If it is consistent with the Master Plan, a rebuttable presumption shall thereby be established that the proposed development would:
 - A. Maintain or promote the public health, safety, and general welfare;
 - B. Maintain or enhance the value of contiguous property, or be a public necessity; and
 - C. Conform to the Comprehensive Plan.

(m) *Abandonment or Revocation of an Approved Master Land Use Plan*

On request by the holder of an approved Master Land Use Plan, the Town Council shall approve the abandonment of the Plan if it determines that no subsequent development approvals have been granted and no construction activity has taken place pursuant to the Master Plan.

On request by the holder of an approved Master Land Use Plan, the Town Council may revoke the Plan and any Special Use Permits approved pursuant to the Master Land Use Plan if it determines that:

- (1) Construction pursuant to the Plan has started; and
- (2) The request is made in conjunction with an application for approval of a development other than that authorized by the Plan; and
- (3) The proposed development as approved by the Town Council would incorporate adequate consideration of the site's already disturbed land area in its design; and
- (4) The proposed use or development conforms with the general plans for the physical development of the Town as embodied in this Chapter and in the Comprehensive Plan; and
- (5) Public purposes are satisfied to an equivalent or greater degree by the proposed change.

(n) *Relation to Preliminary Plat Application*

An application for approval of a Master Land Use Plan may be considered simultaneously with an application for Preliminary Plat approval on the same site. If both applications are approved, any development on resulting subdivided lots must be consistent with the Master Land Use Plan. The individual lots so created within the context of a Master Land Use Plan shall not be required to meet the lot design standards of Section 3.8, provided the zoning lot containing the Master Land Use Plan meets such standards.

(o) *Additions to Master Plans*

Master Plans can be reviewed and approved for development tracts of between ten (10) and twenty (20) acres under the following conditions:

- (1) Development is proposed on tracts of size between ten (10) and twenty (20) contiguous acres (may include parcels on both sides of a public street if at least five acres of the total are located on either side of the street).
- (2) The proposed development tract is adjacent to, or across a public street from, a Mixed Use Development that has been approved by the Town Council in accordance with the provisions of Section 3.5.1.
- (3) The proposed uses, circulation patterns and buffers are demonstrated to be compatible with the adjacent approved Mixed Use Development. In addition, landscape treatments and architecture shall be compatible with the adjacent approved Mixed Use Development to the extent such landscape treatments and architecture comply with any conditions of the permit approving such development.

In such cases, application for approval of a Master Land Use Plan shall be treated as a new application, and shall follow the procedures outlined in this Article.

4.9 Zoning Compliance Permit

4.9.1 Applicability

- (a) Except as otherwise specifically provided in this Chapter, it shall be 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, alteration, or renovation, except for ordinary repairs, of any building or other structure, including accessory structures and signs, until the Town Manager has issued for such action a Zoning Compliance Permit, certifying that such development complies with the applicable provisions of this Chapter.
- (b) It shall also be unlawful to change the type of use or type of occupancy of any land or structure, or to extend any use on any lot on which exists a nonconforming use, until the Town Manager has issued for such action a Zoning Compliance Permit, certifying that such intended uses comply with the applicable provisions of this Chapter.

4.9.2 Procedures

(a) Application Submittal Requirements

Applications for a Zoning Compliance Permit shall be submitted to the Town Manager. The Town Manager shall prescribe the form(s) on which applications are made. The Town Manager shall prescribe any material that may reasonably be required to determine compliance with this Chapter, with sufficient copies for necessary referrals and records. No application shall be accepted by the Town Manager unless it complies with such submittal requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

(b) Action on the Application

The Town Manager shall take final action on the application. Final action on an application shall be based solely on findings as to compliance with all applicable provisions of this Chapter, including all applicable conditions of an approved Special Use Permit, Major or Minor Subdivision, Site Plan Review, or Certificate of Appropriateness, and shall be one of the following:

- (1) Approval of application; or
- (2) Approval of application subject to reasonable conditions to ensure compliance with applicable regulations and conditions; or
- (3) Denial of application.

Final action shall be taken within thirty (30) working days of the acceptance of an application, 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 extensions thereof, shall result in the approval of the application as submitted.

(c) Actions Subsequent to Decision

- (1) In the case of approval or approval with conditions, the Town Manager shall issue the Zoning Compliance Permit. In the case of denial of an application, the Town Manager shall notify the applicant of the reasons for such denial.
- (2) Where Engineering Construction Permits are required by the Town Code of Ordinances, such permit shall not be issued prior to issuance of the Zoning Compliance Permit required for the development and shall comply with the approved Zoning Compliance Permit, including all conditions or approval attached thereto.
- (3) Where a Building Permit is required by Chapter 5, or a Sign Permit is required by Section 5.14 of the Town Code of Ordinances, such permits shall not be issued prior to issuance of the Zoning Compliance Permit and Engineering Construction Permit required for the development and shall comply with the approved Zoning Compliance Permit and Engineering Construction Permit, including all conditions of approval attached thereto.

(d) Appeal of Decision

A decision by the Town Manager in granting or denying a Zoning Compliance Permit may be appealed to the Board of Adjustment in accord with the provisions of Section 4.11 of this Chapter.

(e) **Modification of Zoning Compliance Permits**

- (1) The Town Manager may approve a Modification of Zoning Compliance Permit for changes to plans approved under site plan review, Special Use Permit, Major or Minor Subdivision, as long as such changes continue to comply with the approving action and all other applicable requirements. The Town Manager shall not have the authority to approve a Modification for any substantial changes to plans approved under site plan review unless such changes are specifically required by a condition of approval.
- (2) If a substantial change is proposed, the Town Manager shall require the filing of an application for approval of the modification. An application for Modification of a Zoning Compliance Permit shall be reviewed in accordance with the procedures established in subsections (a) through (d), above.

4.9.3 Performance and Maintenance Guarantees

- (a) Conditions attached to an approval of a Zoning Compliance Permit may include the following:
 - (1) A condition requiring the applicant to provide performance guarantees and/or maintenance guarantees deemed necessary to ensure compliance with the requirements of this Chapter and the conditions of permit approval.
 - (2) A condition permitting the applicant to provide performance guarantees in lieu of actual completion of required improvements prior to use or occupancy of the development authorized by the Zoning Compliance Permit, provided the delayed completion of such improvements is determined to be compatible with the public health, safety and welfare.
- (b) Such performance guarantees and maintenance guarantees shall be satisfactory as to their form and manner of execution, and as to the sufficiency of their amount in securing the satisfactory construction, installation, or maintenance of the required improvements.
- (c) The condition requiring or permitting a performance guarantee shall specify a reasonable time period within which required improvements must be completed. Such time period shall be incorporated in the performance guarantee. The length of such time period shall not exceed two (2) years from the date the Zoning Compliance Permit is issued.
- (d) No performance guarantee shall be released until certification of the satisfactory completion of all required improvements covered by such performance guarantee has been submitted to and approved by the Town Manager.
- (e) If the required improvements covered by a performance guarantee are not completed in accordance with the terms of the performance guarantee, the obligor shall be liable thereon to the Town for the reasonable cost of the improvements not completed and the Town may, either prior to or after the receipt of the proceeds thereof, complete such improvements.

4.9.4 Expiration and Revocation of Zoning Compliance Permit Approvals

(a) Starting Time Limit

If the use, construction, or activity authorized by approval of an application for a Zoning Compliance Permit or Modification of Zoning Compliance Permit is not started within twelve (12) months of the date of approval, or within such further time stipulated in the approval, the approval shall expire and any Town permit issued pursuant to the approval shall be void. The Town Manager may grant a single extension of the starting time limit for up to twelve (12) months, unless he/she determines that paramount considerations of health, the general welfare, or public safety require re-approval. The Town Manager shall determine whether the use, construction, or activity has started.

(b) Completion Time Limit

If all construction and actions authorized or required by a Zoning Compliance Permit or Modification of Zoning Compliance Permit are not completed by the completion date stipulated in the Permit or Modification, the permit holder may request an extension of the completion time limit from the Town Manager. The Town Manager may grant extensions of the time limit for periods of up to twelve (12) months if he/she determines that: a) the permit holder submitted the request within sixty (60) days of the completion date; b) the permit has proceeded with due diligence and good faith; and c) conditions have not changed so substantially as to warrant reconsideration of the approved development. The Town Manager shall determine whether or not all construction and actions authorized or required have been completed.

4.9.5 Revocation of Zoning Compliance Permit

- (a) If any conditions of a Zoning Compliance Permit or Modification of Zoning Compliance Permit, including completion time limits, or requirements of this Chapter applicable to the Permit or Modification are violated, the Town Manager may revoke the Permit or Modification.
- (b) The Town Manager may reinstate a revoked Zoning Compliance Permit or Modification of Zoning Compliance Permit if he/she determines that: a) the holder of the revoked Permit or Modification submitted a request for reinstatement within ninety (90) days of the revocation; b) the violations that were the cause of the revocation have been corrected; and c) the development fully complies with all conditions of the Permit or Modification and all applicable requirements of this Chapter.

4.9.6 Sign Plan Review Required

(a) Applicability

- (1) A unified sign plan is an overall plan for placement and design of multiple signs for a building or group of buildings. Sign plan review and approval by the Town Manager shall be required prior to issuance of a Zoning Compliance Permit for any sign requiring such permit.

- (2) Where a zoning lot contains more than one principal use or establishment, the provisions below shall apply to the zoning lot as a whole, and the owner(s) of the zoning lot shall be responsible for allocating permitted signs and display surface areas among the individual uses or establishments. The sign plan submitted for such zoning lot shall show all signs located or proposed thereon and shall be designed so that all signs are in harmony and consistent with each other. Such a sign plan shall be referred to as a Unified Sign Plan for the zoning lot.

(b) Final Action

A decision by the Town Manager in granting or denying a Zoning Compliance Permit or sign plan approval may be appealed to the Board of Adjustment in accord with the provisions of Section 4.10 of this Chapter.

4.9.7 Certificate of Occupancy

No building or structure for which a Zoning Compliance Permit has been issued shall be used or occupied until, after final inspection, a Certificate of Occupancy has been issued indicating compliance with the provisions of this Chapter and all other state and local laws, including conditions of the Zoning Compliance Permit and all other required permits.

4.10 Appeals

4.10.1 Applicability

- (a) Any decision of the Town Manager made in the administration of the provisions of this Chapter may be appealed to the Board of Adjustment by any person aggrieved by such decision. Any decision of the Planning Board in granting or denying a site plan review application or minor subdivision application may be appealed to the Board of Adjustment as a new case. Any decision of the Historic District Commission in granting or denying a Certificate of Appropriateness may be appealed to the Board of Adjustment and shall be reviewed on the record. Any decision of the Community Design Commission may be appealed to the Board of Adjustment as a new case.
- (b) An application for appeal shall be filed within thirty (30) days of the filing of the decision being appealed or the delivery of any required written notice of the decision, whichever is later.

4.10.2 Stay of Further Action

An appeal to the Board of Adjustment stays all actions seeking enforcement of, or compliance with, the decision being appealed, except where the Town Manager certifies to the Board of Adjustment that, based on findings stated in the certificate, a stay would cause imminent peril to life or property, or that because the situation appealed from is transitory in nature, an appeal would seriously interfere with enforcement of this Chapter.

4.10.3 Procedures for Appeals

In the case of applications for appeal, the Applicant shall bear the burden of presenting evidence sufficient to establish conclusively that there is an error in the determination of the Town Manager. A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

4.11 Interpretations

4.11.1 Interpretations

Where there is any uncertainty as to the intent or actual meaning of any provision of this Chapter, or as to the intended location of any zoning district boundary shown on the Zoning Atlas, the Town Manager shall make an interpretation of said provision or boundary on request of any person. In making an interpretation of any zoning district boundary, the Town Manager shall apply the following standards:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines;
- (b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines;
- (c) Boundaries indicated as approximately following corporate limits shall be construed as following such limits;
- (d) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks;
- (e) Boundaries indicated as approximately following the shorelines or centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such shorelines or centerlines; in the event of change in the shoreline or centerline, the boundary shall be construed as moving with the actual shoreline or centerline;
- (f) Boundaries indicated as approximately following designated limits of areas of special flood hazard shall be construed as following such limits, as shown on the official Base Floodway and Floodplain Boundary Maps and Base Flood Profiles;
- (g) Boundaries indicated as approximately parallel to, or as extensions of, features described in a) through f) above shall be so construed; distances not specifically indicated on the Zoning Atlas shall be determined by reference to the scale of the Atlas;
- (h) Where features described in (a) through (f) above, as existing on the ground, are at variance with those indicated on the Zoning Atlas, or in other circumstances not covered by (a) through (g) above, the Board of Adjustment shall interpret the district boundaries.

4.12 Variances and Appeals

4.12.1 Procedures for Appeals and Variances

(a) Application Submittal Requirements

- (1) Applications for appeal or for a variance shall be filed with the Town Manager.
- (2) The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material that may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.
- (3) No application shall be accepted by the Town Manager unless it complies with such requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.
- (4) On receipt of a complete application, the Town Manager shall transmit the application to the Board of Adjustment. In the case of applications for appeal, the Town Manager shall also transmit to the Board all documents constituting the record on which the decision being appealed was based.

(b) Public Hearing

- (1) After its receipt of an application for appeal or for a variance, the Board of Adjustment shall hold a public hearing on the application at its next available regularly scheduled meeting.
- (2) Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.
- (3) The Public Hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Board may place reasonable and equitable time limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the application may be heard without undue delay. All persons who intend to present evidence at the Public Hearing shall be sworn.
- (4) In the case of applications for a dimensional variance, the applicant shall bear the burden of presenting evidence sufficient to establish conclusively that the requested variance will comply with each of the determinations required in Section 4.12.2.

(c) Action on the Application

- (1) After completion of the public hearing, the Board of Adjustment shall take action on the application.
- (2) In the case of applications for appeal, such action shall be to reverse, or affirm (wholly or partly), or modify the decision being appealed. The Board may act on an application and then direct that a written decision be drafted and circulated for approval by the Board members voting to support the decision, which written decision shall constitute the formal determination by the Board upon such approval.
- (3) In the case of applications for a variance, such action shall be based on findings as to each of the determinations required in Section 4.12, and shall be approval, or approval subject to conditions, or denial. The Board may impose reasonable conditions on the granting of any variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice done. In its consideration of applications for a variance, the Board shall not use the existence of nonconformities in the vicinity as justification for the granting of variances.
- (4) In every case, the record of the action of the Board shall include a summary of its findings and the evidence supporting them.

(d) Actions Subsequent to Decision

- (1) The Town Manager shall notify the applicant of the Board's decision in writing and shall file a copy of it with the Town's Planning Department.
- (2) If a variance is granted, the Town Manager shall issue a variance permit stating the nature of the variance and any conditions attached thereto. The applicant shall record the permit in the office of the appropriate County Register of Deeds.

(e) Appeal of Decision

A decision on the Board of Adjustment on an application for appeal or for a variance may be appealed to the Superior Court by an aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) days of the filing of the decision in the office of the Planning Department or the delivery of the notice required in Subsection 4.6.4(d), whichever is later.

4.12.2 Variances From Regulations

- a) A variance from the dimensional regulations, the water and sewer regulations, or the steep slope regulations of this Chapter may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance, and that, by granting the variance, the intent of this Chapter and the Comprehensive Plan will be observed, public safety and welfare secured, and substantial justice done. Such findings shall be based on the following determinations:

- (1) That strict compliance with the regulations allows no reasonable use of the applicant's property;
 - (2) That the hardship complained of is one suffered by the applicant rather than by neighbors or the general public;
 - (3) That the hardship relates to the applicant's property rather than to personal circumstances;
 - (4) That the hardship is peculiar to the applicant's property, rather than a hardship shared by the neighborhood or resulting from the existence of nonconforming situations in the vicinity;
 - (5) That the hardship is not the result of the applicant's own actions;
 - (6) That the variance will not substantially interfere with or injure the rights of others whose property would be affected by granting of the variance; and
 - (7) That the variance will not result in a violation of the provisions of Article 7 by allowing the enlargement, expansion, extension, or the greater permanence or intensity of a nonconforming use or feature.
- (b) A variance from the “house size” limitations established by a Neighborhood Conservation District may be granted by the Board of Adjustment to allow up to a 2,500 square foot structure if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance, and that, by granting the variance, the intent of this Chapter and the Comprehensive Plan will be observed, public safety and welfare secured, and substantial justice done.

4.12.3 Variances within Resource Conservation District

See Section 3.6.3.

4.12.4 Variances within Watershed Protection District

See Section 3.6.4.

4.13 Violation and Penalties

4.13.1 Violations

Whenever, by the provisions of this Chapter, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land, or on the erection, alteration, or the use or change of use of a structure, a failure to comply with such provisions shall constitute a violation of this Chapter.

4.13.2 Liability

The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Chapter may be held responsible for the violation and be subject to the penalties and remedies provided herein.

4.13.3 Procedures Upon Discovery of Violations

- (a) Upon the determination that any provision of this Chapter is being violated, the Town Manager shall send a written notice by personal service or by certified mail, return receipt requested, to the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Town Manager's discretion.
- (b) The final written notice, which may also be the initial notice, shall state the action the Town Manager intends to take if the violation is not corrected, and shall advise that the Town Manager's order may be appealed to the Board of Adjustment as provided in Section 4.10 of this Chapter.
- (c) In cases when delay would seriously threaten the effective enforcement of this Chapter, or pose a danger to the public health, safety, or general welfare, the Town Manager may seek enforcement without prior written notice by invoking any of the penalties or remedies contained in Section 4.13.4.

4.13.4 Penalties and Remedies

- (a) Any violation of any provision of any Article of the Chapel Hill Land Use Management Ordinance shall constitute a misdemeanor and shall subject the violator to a penalty of five hundred dollars (\$500.00) or imprisonment for not more than 30 days.
- (b) Any act constituting a violation of this Chapter shall also subject the offender to a civil penalty of one hundred dollars (\$100.00). If the offender fails to pay the penalty within ten (10) days of receiving final written notice of a violation, the penalty may be recovered by the Town in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender received a final written notice of violation and did not appeal to the Board of Adjustment within the time limit prescribed in Section 4.10 of this Chapter.
- (c) Each day that any violation continues after receipt of the final written notice of such violation shall constitute a separate violation and a separate offense for purposes of the penalties and remedies specified herein.
- (d) In addition to the penalties and remedies above, the Town Manager may institute any appropriate action or proceedings to prevent, restrain, correct, or abate a violation of this Chapter.

4.13.5 Violations within Resource Conservation District

See Section 3.6.3.

ARTICLE 5. DESIGN AND DEVELOPMENT STANDARDS

This Section establishes the criteria for designing a lot, a development, or a site. Section 5.2 describes how to establish lots and lot lines. The reader should also consult the Dimensional Matrix in the Zoning regulations (Section 3.8, Table 3.8-1) for additional standards governing lot design.

Environmental protection is an important theme of the Comprehensive Plan and Town policy. This Article contains a number of standards to minimize the impact of development on the environment. Standards to control erosion and the development of steep slopes are established in Section 5.3. (The reader should also refer to the Resource Conservation District regulations in Article 3 of this Chapter, and the floodplain management regulations of Chapter 5 of the Town Code, for additional environmental regulations). Criteria for controlling stormwater and drainage are set out in Section 5.4. The central theme of these regulations is to encourage “low-impact design” that disperses pavement into small modules, and replicates the natural hydrological system of the site. Section 5.5 requires a portion of most developments to be used as parks or open space. This includes reserving areas for common open space, with the payment of fees in lieu of reserving these areas in order to create design flexibility. Section 5.6 requires developers and landowners to provide landscaping, as well as landscaped buffers between incompatible uses. Section 5.7 requires the protection of trees from incompatible development. This Section describes what trees require protection, and how the root systems and other features are protected.

The design of street systems and regulation of traffic are described in Section 5.8. This includes not only vehicular access, but also facilities for pedestrian and bicycle access. Section 5.9 establishes both a minimum and a maximum amount of vehicle parking spaces that must accompany new development.

The design of buildings and structures to facilitate access by disabled persons is an increasingly important consideration in construction and development. This issue is addressed in Chapter 5 of the Town Code of Ordinances, and the State Building Code.

Lighting and signage provide visibility for development, but can also create unsafe conditions and clutter. Controlling light spillage onto adjoining properties is important to Chapel Hill’s neighborhoods. This issue is addressed in Section 5.11. Section 5.14 controls the type, size and location of signs.

The final sections of the code relate to construction activities. The design of utilities and site infrastructure, such as solid waste collection and water and sewer systems, is governed by Sections 5.12 - 5.13. Section 5.15 establishes standards to minimize the potential for nuisance-type conditions during construction activities.

5.1 Overall Site Design

5.1.1 Intent

It is the intent of this Article to provide general performance standards to ensure that development within the Chapel Hill planning jurisdiction will be designed, arranged, and constructed in a safe, orderly, energy-efficient, and visually harmonious manner, and will reflect the basic character of the development site and its immediate surroundings as well as the nature of the proposed uses of the site. Site and structure designs that emphasize energy conservation are encouraged.

5.1.2 Applicability

Except as otherwise specifically provided in this Chapter, no land or structure shall be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on land contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved except in compliance with the general performance standards specified herein and the specific standards contained in the design manual required below.

5.1.3 Design Manual

The Town Council shall adopt and maintain a Design Manual which shall contain specific design and construction standards. Such standards shall be in accord with the general performance standards contained herein, and shall reflect, where applicable, generally accepted design and construction practices and techniques. The Design Manual shall contain sufficient flexibility in the application of specific standards so as to permit modifications of the standards where such modifications have been determined by the Town Manager to be equally or more appropriate to safe, orderly, energy-efficient, and visually harmonious development due to particular conditions of a development site, and that such modifications continue to be in conformance with the general performance standards contained herein.

5.2 Lot Layout Standards

Purpose Statement: *The purposes of these standards are to ensure that lots in new subdivisions, and the placement of buildings within lots, are designed and located so as to:*

- *Protect and conserve environmental resources;*
- *maximize energy efficiency and conservation;*
- *be visually harmonious both within the development site and in relation to adjacent developments;*
- *be integrated to the degree of their compatibility with each other and are separated to the degree of their incompatibility;*
- *be designed with a street network that provides safe, adequate access to all lots within the subdivision, and to properties adjoining the subdivision where such access is deemed desirable for the orderly future development of these properties;*
- *be arranged so as to preserve or enhance vistas.*

5.2.1 General Site Arrangement

Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support, the creation of hazard, nuisance, or danger, unreasonable loss of light and air or solar access, or unreasonable loss of privacy or views.

5.2.2 Applicability of Lot Design Standards

Each lot in a subdivision shall comply with the lot design standards contained in this Section. Newly created or revised lots shall be designed so that any existing structures continue to meet the requirements of this Chapter or so that any existing nonconformity is not increased, extended, or enlarged. The standards of this Section, however, do not apply to recreation areas, lots within approved planned developments and townhouse lots created as part of a minor subdivision provided:

- (a) The Town Manager has approved provisions for the unified control of and responsibility for the development and for the maintenance of common areas; and
- (b) The Town Manager has approved provisions for ensuring access to and use of recreation areas or areas otherwise designated for the residents' common use and benefit.

5.2.3 Lot Arrangement

The arrangement of lots in a subdivision shall comply with the provisions of this Article and shall provide vehicular access to buildings on them from an approved street.

5.2.4 Access to Streets

Every subdivided lot shall front on a street meeting the standards of this Article and of the Design Manual, including all required improvements such as sidewalks, curbs, and gutters.

Double frontage lots are prohibited except where necessary to separate residential development from arterial streets or to overcome specific disadvantages of topography and orientation. Where double frontage lots are permitted, a bufferyard shall be provided adjacent to the higher classified street to prohibit access by motorized vehicles.

5.2.5 Lot Dimensions

Every subdivided lot shall comply with the dimensional standards contained in this Chapter (Section 3.8), as well as other standards of the County Health Department for lots not served by a public water supply and/or a public sanitary sewer system.

Where the gross land area of a lot(s) in the subdivision is greater than or equal to twice the minimum gross land area required in Section 3.8 for the zoning district, the Town Manager or Town Council, as appropriate, may require that the subdivision be arranged to allow future orderly subdivision of such lots and the opening of future streets where needed to serve such potential lots.

5.2.6 Flag Lots

The Town of Chapel Hill discourages and restricts forming flag lots in subdivisions. A flag lot shall be permitted if necessary to allow a property owner reasonable use and benefit from his/her land or to alleviate situations which would otherwise cause extreme hardship for him/her.

Flag lots are prohibited except when allowed upon findings that:

- (a) the flag lot is necessary to eliminate access onto an arterial street (See Figure 5.2.6-1);

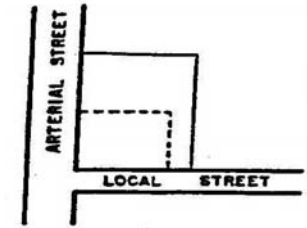


Figure 5.2.6-1

- (b) the flag lot is necessary to reasonably utilize irregularly shaped land (See Figure 5.2.6-2); or

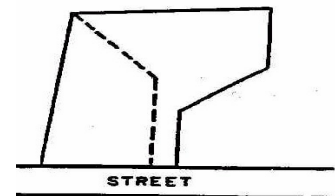


Figure 5.2.6-2

- (c) the flag lot is necessary to reasonably utilize land with difficult topography (See Figure 5.2.6-3).

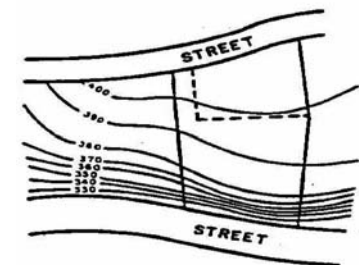


Figure 5.2.6-3

No flag lot will be allowed if it increases the number of access points onto an arterial or collector street.

That portion of a flag lot between the street onto which it has access and the point where a lot dimension parallel to the street first equals or exceeds the minimum lot width specified in Section 3.8 shall not be longer than two hundred feet. The lot width and street frontage of a flag lot may be reduced to 35 feet. The Town Manager may approve further reductions to a minimum of 20 feet where topographical conditions permit the construction of an adequate driveway within that width. The Town Manager may also require greater widths where necessary to ensure adequate access.

5.2.7 Location of Lot Lines

Interior lot lines extending from a street should be approximately perpendicular or radial to the street right-of-way line.

Lot lines shall be located to permit efficient installation and maintenance of utility lines on utility easements and to maximize buildable area.

5.2.8 Zero Lot Line Setback Modifications

Interior and solar setbacks for structures on lots within a subdivision may be reduced to zero provided such reductions are shown on the approved final plat and the following requirements are met:

- (a) The interior or north lot line designated for a zero setback (the zero lot line) shall not be used for a zero setback on the other property abutting the lot line.
- (b) The setback between the lot line opposite the zero lot line and any structure on the lot shall equal or exceed two (2) times the minimum interior setback specified in Section 3.8.
- (c) The wall constructed against the zero lot line shall be at least six (6) feet high and shall not contain windows, doors, air conditioning units, or other openings. Any wall facing the zero lot line but not constructed against it shall conform to the minimum interior or solar setback, as appropriate, specified in Section 3.8.
- (d) A wall maintenance easement shall be provided on the other property abutting the zero lot line. The width of such easement shall be at least four (4) feet.
- (e) The zero setback shall be approved as part of a subdivision approval or the owners of the other property abutting the zero lot line shall consent, by recorded agreement or deed restriction, to the zero setback.

5.3 Critical Areas & Environmental Performance Standards

5.3.1 Erosion & Sedimentation Control

All developments shall comply with the provisions of applicable soil erosion and sedimentation control regulations (Article 5 of Chapter 5 of the Town Code of Ordinances). Certification of compliance with or exemption from the requirements of such regulations shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development. No Engineering Construction Permit or Building Permit shall be issued until certification of the completion of control measures and facilities required for all associated land-disturbing activity has been submitted to the Town Manager.

5.3.2 Steep Slopes

Purpose Statement: *The purpose of this Section is to minimize the grading and site disturbance of steep slopes by restricting impervious surfaces and land disturbance in such areas, and by requiring special construction techniques in steeply sloped area in order to:*

- *protect water bodies (streams and lakes) and wetlands from the effects of erosion on water quality and water body integrity,*
 - *protect the plant and animal habitat of steep slopes from the effects of land disturbance, and*
 - *preserve the natural beauty and economic value of the Town's wooded hillsides.*
- (a) For purposes of this Section, “slope” means the ratio of elevation change to horizontal distance, expressed as a percentage. Slope is computed by dividing the vertical distance (“rise”) by the horizontal distance (“run”), and multiplying the ratio by one hundred. For purposes of this Section, a “slope” shall include only those areas of size 400 square feet or greater. Four different categories of slopes are established in this Section, as described in Table 5.3-1. The construction and development restrictions are established in Table 5.3-1 for each category of slopes.
- (b) Steep slope regulations contained in this Section shall not apply to single family dwelling units or two-family/accessory apartment dwelling units on lots lawfully created prior to January 27, 2003, or lots created pursuant to a Preliminary Plat approved by the Town Manager prior to January 27, 2003.
- (c) Contents of Application
- (1) The following information shall be provided for any application proposing development on a lot or parcel that includes a slope of at least ten percent (10%):
- A. A Slope and topographic map based on a certified boundary survey depicting contours at an interval of five feet (5') or less. The map shall indicate, through cross-hatching or separate colors, all areas within each Slope Category described above. Slope determinations shall be made upon areas with a size of 400 square feet or greater in the categories described in Table 5.3-1, below.
 - B. An analysis of the direction, rate and volume of stormwater runoff leaving each area within a slope category described above.
 - C. The location of any existing swales, streams, or other watercourses.
- (2) The following information shall be provided for any application proposing development on a lot or parcel that includes a slope greater than fifteen percent (15%):
- A. a detailed site analysis of soil conditions,
 - B. a detailed site analysis of hydrology,

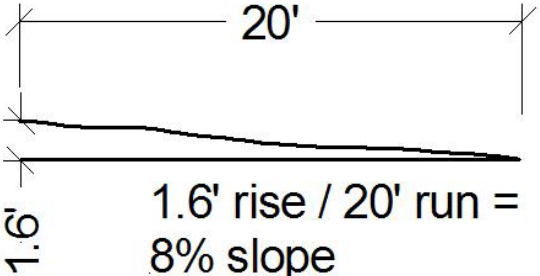
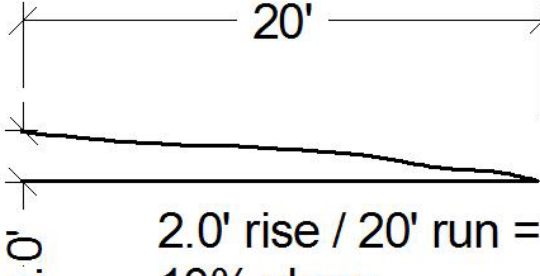
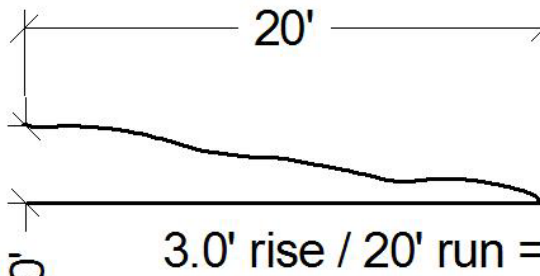
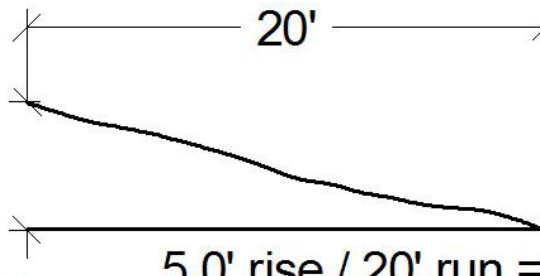
- C. a detailed site analysis of bedrock conditions, and
- D. a detailed site analysis of any other engineering and environmental considerations as may be required by the Town Manager in order to determine whether the proposed development will create a threat to the public health, safety and general welfare or cause land subsidence, erosion, or increases in the rate of volume of stormwater entering adjoining properties.

(d) Construction Techniques

Construction activities on slopes greater than fifteen percent (15%) shall comply with the following:

- (1) Exposed soil that is not under continuous construction shall be revegetated with temporary or permanent vegetation so that the soil is not left exposed following issuance of a Certificate of Occupancy, vegetation shall be reestablished. If irrigation is not provided, then the exposed soil shall be planted with species which can survive without irrigation. Vegetative cover or any alternative cover (rock, masonry, etc.) shall be maintained in perpetuity.
- (2) All cut and fill slopes shall not exceed a three (horizontal) to one (vertical) by the Town Manager upon certification, by a qualified soils engineer or geologist, that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist.

Table 5.3-1 Slope Construction Restrictions

Slope Category	Illustration	Development Restrictions
< 10%	 <p>20'</p> <p>1.6'</p> <p>1.6' rise / 20' run = 8% slope</p>	No additional building restrictions pursuant to this Section
10 to 15%	 <p>20'</p> <p>2.0'</p> <p>2.0' rise / 20' run = 10% slope</p>	Site preparation techniques shall be utilized which minimize grading and site disturbance.
Greater than 15%, less than 25%	 <p>20'</p> <p>3.0'</p> <p>3.0' rise / 20' run = 15% slope</p>	Building and site preparation may occur upon demonstration of specialized site design techniques and approaches as described in subsection (d).
25% or higher	 <p>20'</p> <p>5.0'</p> <p>5.0' rise / 20' run = 25% slope</p>	Generally unsuitable for development. Land disturbance shall not exceed 25% of the area containing 25% or greater slopes unless a variance is granted by the Board of Adjustment. For disturbed areas, building and site preparation shall utilize specialized site design techniques and approaches as described in subsection (d).

5.4 Stormwater Management

5.4.1 Purpose

The purpose of this Section is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This ordinance seeks to meet that purpose through the following objectives:

- (a) minimize increases in stormwater runoff from any development in order to reduce flooding, siltation and streambank erosion and maintain the integrity of stream channels;
- (b) minimize increases in non-point source pollution caused by stormwater runoff from development that would otherwise degrade local water quality;
- (c) minimize the total volume of surface water runoff that flows from any specific site during and following development in order to replicate the pre-development hydrology to the maximum extent practicable;
- (d) reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety; and
- (e) meet the requirements of the National Pollutant Discharge Elimination System (NPDES Phase 2) regulations as established by the Clean Water Act and administered by the North Carolina Department of Natural Resources, or its successor agency.

5.4.2 Applicability

- (a) This Section shall apply to all new development and redevelopment projects for which a Zoning Compliance Permit is required.
- (b) To prevent the adverse impacts of stormwater runoff, the Town has developed a set of performance standards that must be met at all new development and redevelopment sites. The following activities are exempt from these stormwater performance criteria:
 - (1) Any logging and agricultural activity that is consistent with all Federal, State and local regulations;
 - (2) Single-family and two-family developments and redevelopments that do not disturb more than 5,000 square feet of land area, including cumulative disturbance, provided they are not part of a larger common development plan;
 - (3) Repairs to any stormwater treatment facility deemed necessary by the Town.

5.4.3 Design Manual and Standard Details

The Town may furnish additional policy, criteria and information, for the proper implementation of the requirements of this Section and may provide such information in the Design Manual and Standard Details, which manual may include a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the Town, based on improvements in engineering, science, monitoring, and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

5.4.4 Application Submittal Requirements

Unless otherwise exempted by this Section, every permit application for development must be accompanied by a Stormwater Impact Statement in order for the permit application to be considered.

The Town Manager shall prescribe the form(s) and information that shall be submitted to determine compliance with this Chapter, with sufficient copies for necessary referrals and records.

Information requirements may be adjusted or waived by the Town Manager for a particular development application upon written request of the applicant, provided that at least one of the following circumstances can be demonstrated:

- (a) Alternative measures for on-site and/or off-site management of stormwater have been proposed, and these measures are approved by the Town Manager and comply with local ordinance(s).
- (b) It is otherwise demonstrated that the proposed development will not produce any significant change to the existing pre-application hydrology.

5.4.5 Waivers for Stormwater Management Facilities Requirements

Unless otherwise exempted by this Section, every development application shall provide for stormwater management. The requirements for stormwater management facilities may be waived in whole or in part by the approving body, provided that it is demonstrated by the applicant that at least one of the following conditions applies:

- (a) Alternative measures for on-site and/or off-site management of stormwater have been proposed, and these measures are approved by the Town Manager and comply with local ordinance(s).
- (b) It is otherwise demonstrated that the proposed development will not produce any significant change to the existing pre-application hydrology.

5.4.6 General Performance Criteria for Stormwater Management

The following are required stormwater management performance criteria:

- (a) Stormwater treatment shall be designed to achieve average annual 85% Total Suspended Solids (TSS) removal and must apply to the volume of post-development runoff resulting from the first 1-inch of precipitation. Alternative treatment methods to achieve 85% average annual TSS removal may be acceptable. The 85% requirement applies to 85% of the additional suspended solids that are the result of the new development.
- (b) The stormwater runoff volume leaving the site post-development shall not exceed the stormwater runoff volume leaving the site pre-development (existing conditions) for the local 2-year frequency, 24-hour duration storm event for all development except single-family and two-family dwellings on lots existing as of January 27, 2003, or on lots pursuant to a Preliminary Plat that was approved by the Town Council prior to January 27, 2003. This may be achieved by hydrologic abstraction, recycling and/or reuse, or any other accepted scientific method.
- (c) The stormwater runoff rate leaving the site post-development shall not exceed the stormwater runoff rate leaving the site pre-development (existing conditions) for the local 1-year, 2-year, and 25-year 24-hour storm events.
- (d) Land disturbance within the stream channel of any ephemeral stream shall be minimized, and prohibited unless explicitly authorized by issuance of a Zoning Compliance Permit after demonstration of the necessity for the disturbance.

5.4.7 Integrated Management Practices

Applicants shall utilize Integrated Management Practices/Best Management Practices to meet the standards established in Section 5.4.6, using one or more approved design options. Low Impact Design options are encouraged. Descriptions and standard details of approved Integrated Management Practices/Best Management Practices are included in the Town Design Manual.

Consideration shall be given in all stormwater management strategies to the relationship between temporary facilities required and installed during construction as part of soil erosion and sedimentation control regulations; and permanent facilities designed to manage stormwater post-construction on an on-going basis.

5.4.8 Maintenance

Stormwater Management Facilities that are constructed on privately-owned land and that are not within a public easement shall be maintained by the owner of the subject property. Stormwater Management Facilities that are constructed on public land, within public rights-of-way, and/or within public easements shall be maintained by the public body with ownership/jurisdiction.

The following requirements shall be met for all stormwater management facilities that are constructed on privately-owned property and not within a public easement.

(a) *Maintenance Easement*

Prior to the issuance of any permit that has a stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town, or its contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Section. The property owner shall record such easement, in a form and format approved by the Town Manager, with the office of the appropriate County Register of Deeds.

(b) *Maintenance Covenants*

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the Town Manager and recorded in the office of the appropriate County Register of Deeds. This covenant shall be entitled, "Stormwater Operations and Maintenance Plan." A schedule for maintenance and inspections shall be included as part of the covenant.

The owner, or the owner's assigns, are responsible for maintenance of stormwater management facilities; however, the Town may, under certain circumstances, accept dedication of existing or future stormwater management facilities for public maintenance and inspection.

(c) *Requirements for Maintenance Covenants*

All stormwater management facilities must be inspected by the responsible party, in accordance with the approved schedule in the Stormwater Operations and Maintenance Plan, to identify maintenance and repair needs, and to ensure compliance with the requirements of this ordinance. Any identified maintenance and/or repair needs found must be promptly addressed by the responsible party. The inspection and maintenance requirement may be increased as deemed necessary by the Town to ensure proper functioning of the stormwater management facility.

(d) *Records of Installation and Maintenance Activities*

Parties responsible for the inspection, operation, and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs and shall retain the records for at least 5 years. These records shall be made available to the Town upon request and/or as specifically outlined in the maintenance covenant.

(e) Failure to Maintain Practices

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the Town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, or is otherwise not functioning as designed, the Town shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. After proper notice, the Town may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

5.4.9 Inspection

(a) Inspection of Stormwater Facilities

Inspections shall be conducted as prescribed by the Stormwater Operations Maintenance Plan covenant. Additional inspections may be conducted by the Town on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type that are more likely than the typical discharge to cause violations of State or Federal water or sediment quality standards or the National Pollutant Discharge Elimination System (NPDES) stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

(b) Right-of-Entry for Inspection

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system the property owner shall grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the Town has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

5.5 Parks and Open Space

5.5.1 Applicability

- (a) This Section applies to:
- (1) Any major subdivision that creates lots reasonably expected to be used for dwelling units; or
 - (2) Any multi-family development.
- (b) In all cases the Chapel Hill Parks and Recreation Commission shall review and make recommendations to the Town Council on the provision or dedication of parks and open space.
- (c) Provision or dedication of parks and open space is not required for a minor subdivision.
- (d) Phases of development within a subdivided tract that occur after the initial subdivision must provide the required parks and open space appropriate for the subsequent development of those tracts. For example, if multifamily dwellings are built within an already subdivided tract, those dwellings must comply with recreation and outdoor space ratios required for multifamily dwellings by this Section.

5.5.2 Minimum Recreation Area and Recreation Space

(a) *Residential Subdivisions*

This Section applies to any application for subdivision approval in the zoning districts enumerated below. The total land area set aside permanently for use as recreation area shall be at least the following percentage of gross land area:

Zoning District	Recreation Area Ratio
R-LD5	.040
R-LD1	.050
R-1A	.061
R-1	.071
R-2A	.095
R-2	.120
R-3	.170
R-4, 5, 6 and all other non-residential zoning districts	.218

(b) Suitability of Land

- (1) Land provided or dedicated as recreation area shall be outside of the Resource Conservation District and of a character, shape and location suitable for use as a playground, playfield, or for other active recreation purposes including greenway pedestrian and non-motorized vehicle easements. Recreation areas shall be located on land that is relatively flat and dry and is otherwise capable of accommodating active recreation uses, except as exempted under the provisions of subsections (e)(2) and (e)(3), below.
- (2) For sites that abut or include areas designated as future greenways on the Town's Comprehensive Plan, the Town Council may require that a dedicated public pedestrian and non-motorized vehicle easement along all such areas be the recreation space provided under this ordinance.
- (3) Active recreation areas shall be conveniently accessible to all residents of the subdivision and, other than greenway pedestrian and non-motorized vehicle easements, shall have at least fifty (50) feet of frontage on at least one public street within the subdivision. Land provided or reserved for active recreation shall form a single parcel except where the Town Council determines that two (2) or more parcels are more suitable to the needs of a particular subdivision. The Town Council may require that such parcels be connected.
- (4) In large developments it is desirable to have parks and recreation areas within walking distance of new residences.

(c) Method of Provision or Dedication

Land provided or dedicated for recreation purposes shall be designated on the subdivision's final plat(s). The Town Council may require that such land be dedicated to the Town or other appropriate public body. If the Town does not require that the land be dedicated or deeded to an appropriate public body, then the Town may require that a neighborhood or homeowners' association be established for the continuing maintenance and control of common recreation area and facilities.

(d) Payments in Lieu of Provision or Dedication

- (1) In lieu of providing or dedicating parks and open space area required pursuant to this Section, a developer of a subdivision may, with the approval of the Town Council, make a payment to the Town whereby the Town may acquire or develop recreation land to serve the subdivision. A developer may make a partial payment in combination with the partial provision of recreation area if the Town Council determines that the combination is in the best interests of the citizens of the area to be served.
- (2) The Town Council may require a payment to the Town in lieu of providing or dedicating recreation area required pursuant to this Section where the minimum recreation area required by this Section equals two (2) acres or less.

- (3) The Town shall use such payment only for the acquisition or development of recreation, park, or open space sites, as allowed by law.
- (4) Payments In Lieu of Recreation Area shall be determined by the following formula:

A per square foot value of the property shall be determined, as established by Orange County and/or Durham County for real estate tax purposes. The value established by Orange County and/or Durham County shall include only the value of the land and shall not include the value of existing structures and improvements. The square foot value shall be multiplied by the number of square feet of Recreation Area required for the development to arrive at a Base Value. The Base Value shall be multiplied by a Recreation Area Payment in Lieu Multiplier to determine the required amount of payment in lieu of Recreation.

The Payment in Lieu Multiplier for Recreation Area shall be established by the Town Council annually as part of the budget process.

- (5) The developer shall make the payment before approval of a final plat for the subdivision, provided, however, that the Town Manager may allow phasing of payments consistent with the approved phasing of the subdivision.”
- (6) In the event that a property owner successfully appeals the County valuation of the property after the Payment in Lieu for Recreation Area is made to the Town, and the resulting change in valuation would have reduced the amount of the Payment in Lieu for Recreation Area, the Town shall reimburse the developer the difference between what was paid and what would have been paid had the revised valuation been used.

(e) Exemptions

- (1) If the Town Council determines that the land required to be provided or dedicated as recreation area by this Section would be less than 3,000 square feet and where that area cannot be combined with an existing or planned recreation area or greenway as identified on the Town’s Comprehensive Plan, then provision or dedication of that area will not be required.
- (2) If the Town Council determines that assembling a piece of land to meet the requirements of Section (b) either would create undue hardships or is not necessary because the active recreational needs of the subdivision are already being met by dedicated land or by existing recreation areas, it may waive any requirements of that subsection. In such cases, the required recreational area may be used for preserving woods, steep slopes, ponds, streams, glens, rock outcrops, native plant life, and wildlife cover. These areas would provide for the community's need for passive recreational areas and/or greenways.

- (3) If the site abuts or includes areas designated as future greenways on the Town's Comprehensive Plan, land area dedicated as a public pedestrian non-motorized vehicle easement or deeded to the Town along the greenway may be applied to requirements for dedication of recreation area and exempted from the land suitability requirements of Section (b).

(f) Substitution of Off-Site Land for Dedicated Recreation Area

- (1) Any subdivider required to provide or dedicate recreation area pursuant to this Section may, with the approval of the Town Council, dedicate recreation area outside the boundaries of the land being subdivided but in a nearby area of Town.
- (2) The substitute dedicated recreation area shall be in a location acceptable to the Town Council, shall be comparably valued, and shall meet all suitability requirements as set forth under the provisions of Section (b), above.

(g) Multi-family Dwelling Units

Active, improved space (either indoors or outside) shall be provided for the common active recreational use of residents of multi-family developments. For sites that abut or include areas designated as future greenways in the Town's Comprehensive Plan, 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 recreation space. The minimum size of such active recreation space shall be the number of square feet derived by multiplying gross land area of the development by the applicable ratio shown below.

Zoning Districts	Recreation Space Ratio
TC-1, TC-2	.120
CC	.046
NC	.039
OI-2	.046
OI-1	.046
I	.032
R-SS-C, R-6, R-5	.050
R-4	.039
R-3	.032
R-2, R-2A, R-1	.025
R-1A	.022
R-LD1	.020
All Others	.015

(h) Payments in Lieu of Improved Recreation Space

In lieu of providing recreation space required pursuant to this Section, a developer of a multifamily dwelling or planned development may, with the approval of the Town Council (or Planning Board if final approval is by the Planning Board), make a payment to the Town whereby the Town may acquire or develop recreation land to serve the development. A developer may make a partial payment in combination with the partial provision of recreation space if the Town Council determines that the combination is in the best interests of the citizens of the area to be served.

The Town shall use such payment only for the acquisition or development of recreation, park, or open space sites to serve residents of the development or residents of more than one subdivision or development within the immediate area. The amount of the payment shall be the product of the minimum amount of recreational space required multiplied by the fair market value of improved recreation space.

The developer shall make the payment before issuance of a Zoning Compliance Permit for the development, provided, however, that the Town Manager may allow phasing of payments consistent with the approved phasing of the development.

The amount of the Payments In Lieu of Improved Recreation Space shall be established by the Town Council annually as part of the budget process.

(i) Connectivity

Purpose Statement: The Town hereby finds and determines that an interconnected system of parks, trails, greenways, and bikeways provides a greater public benefit than isolated parks with access exclusively by automobiles. Such areas can provide form to neighborhoods, a common public gathering space, and an opportunity to protect natural areas.

Recreation Area provided pursuant to this Section shall be aligned with and shall adjoin any area designated as a park or open space area on adjoining property, including any public greenway, linear park, or similar facility. Sidewalks, trails, or similar facilities shall align with such facilities in an adjoining tract or, where adjoining tracts are unimproved, with any area designated for parks or open space in the Comprehensive Plan or any Parks Master Plan adopted by the Town.

5.6 Landscaping, Screening and Buffering

5.6.1 Purpose of Buffers

Buffers shall be required to separate a proposed development from adjacent major streets and different adjacent land uses or zoning designations in order to minimize potential nuisances such as the transmission of noise, dust, odor, litter, and glare of lights; to reduce the visual impact of unsightly aspects of adjacent development; to provide for the separation of spaces; and to establish a sense of privacy.

5.6.2 Buffers Required

- (a) A buffer is a strip of land together with the screening required thereon. Except as otherwise specifically provided in this Chapter, the type of buffer required between a proposed development and adjacent streets, land uses or zoning designations shall be as specified in Section 5.6.6, Schedule of Required Buffers. Where the proposed development site and the adjacent land are both located within either Town Center District, no buffer shall be required.
- (b) Where the proposed development site is located in a Residential-Special Standards-Conditional zoning district, no buffer shall be required.
- (c) Where the proposed development site is located in a Materials Handling (MH) zoning district, a 200 foot Type "E" landscape buffer shall be required.
- (d) Width and screening specifications for each buffer type shall be detailed and illustrated in the Design Manual. Screening required within buffers is intended to provide separation of spaces without necessarily eliminating visual contact between the spaces, and may consist of existing vegetation, planted vegetation, a landscaped earth berm, a decorative wall, a wood fence, or a combination of the above. Any of the options specified in the Design Manual for the required buffer type shall satisfy the buffer requirements of this Section.
- (e) Eating/drinking establishments and places of worship shall be separated by either a Type "A" buffer, or a screening device as provided in Section 5.6.7.

5.6.3 Location of Buffers

Required buffers shall be located along the interior or street lot lines nearest the adjacent streets, land uses, or zoning designations except where such lot lines are intersected by crossing accessways or utility easements, or by a joint parking area. Buffers shall not be located on any portion of an existing or proposed street right-of-way or easement.

5.6.4 Use of Buffer

Provided the required buffer width and screening is maintained, a buffer may contain pedestrian and bicycle paths, utilities that must cross the buffer, and other minor or passive uses compatible with the general separation of land uses.

5.6.5 Responsibility for Buffer

- (a) Where vacant zoning lots are adjacent, the first zoning lot to be developed shall provide the buffer required next to vacant land. At the time it is developed, the second zoning lot shall provide all additional screening and/or land that might be necessary to provide the buffer required between the developed land uses.

- (b) Where a buffer meeting the requirements of this Section is provided on an adjacent zoning lot, the screening and/or land within that buffer may be counted as contributing to the total buffer required between the adjacent existing land use and the proposed land use.

5.6.6 Schedule of Required Buffers

Specifications for each buffer type are contained in the Design Manual. The buffer requirement noted in the Schedule of Required Buffers may be reduced by one grade of intensity (e.g., C to a B) if the development is designed such that there is no parking between the buildings located on the site and the adjacent street.

[Schedule of Required Buffers begins on next page]

Table 5.6.6-1 Schedule of Required Buffers

Adjacent* Existing Principal Use#	Proposed Principal Use				
	Major Subdivision creating lots for single or two-family dwellings or Class A mobile home	Any other principal use in Use Group A, except essential services	Any principal use in Use Group B	Automotive repair, maintenance and/or storage facility, light manufacturing, supply yard	Any principal use in Use Group C other than the above
Dwellings, single-family or two-family, Class A Mobile Home	--	B	C	D	C
Any other principal use in Use Group A, except Essential Services	B	B	C	D	C
Interstate Highway	E	E	E	E	E
Railroad, non-Interstate, Arterial Street	D	D	D	D	D
Collector Street	C	C	C	C	C
Any use in Use Group B	C	C	B	C	B
Automotive Repair, Maintenance and/or Storage Facility, Light Manufacturing, Supply Yard	D	D	C	B	B
Any other use in Use Group C	C	C	B	B	B
Adjacent* Vacant Land Zoning:					
R-LD5, RT, R-LD1	--	B	C	D	C
R-1, R-2, R-3					
R-4, R-5, R-6	B	B	C	D	C
OI-1, OI-2	C	C	B	C	B
I	D	D	C	B	B
NC, CC, OI-3, TC-1, TC-2	C	C	B	B	B

Rules of Interpretation for Schedule of Required Buffers:

- No buffer required.
- * Adjacent land uses and vacant land uses and lands across a local street from the proposed use.
- # Existing uses includes uses approved as part of development for which a Special Use Permit or Zoning Compliance Permit has been issued.

5.6.7 Other Required Screening

In addition to the bufferyard screening required above, and the screening required for off-street parking and for refuse storage facilities, all business, service, repair, processing, storage, or merchandise display conducted outside of an enclosed building shall be screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, or tight evergreen hedges which shall reach the necessary height within two (2) years of planting, or a combination of the above.

5.6.8 Alternative Buffers and Screening

In lieu of compliance with the above bufferyard and screening requirements, a developer may submit to the Community Design Commission for its approval a detailed plan with specifications for landscaping and screening which will afford a degree of buffering and screening equivalent to or exceeding that provided by the above requirements.

5.6.9 Existing Vegetation

Existing vegetation shall be retained and maintained whenever possible so as to permit such vegetation to contribute to buffer and screening requirements.

5.6.10 Maintenance of Landscaping

All landscaping and screening providing required buffering and screening shall be maintained so as to continue its effectiveness.

5.7 Tree Protection

5.7.1 General Provisions

(a) Short Title

This Section shall be known and may be cited as the Chapel Hill Tree Protection Ordinance.

(b) Finding

The Town Council finds that:

- (1) Chapel Hill contains a diversity and abundance of trees, shrubs and soils. Such elements are of economic value to the Town and make it a desirable place for both residents and visitors;

- (2) the appearance of Chapel Hill from the public ways contributes to the economic prosperity of the Town;
- (3) trees and other landscape elements help to naturally control flooding and erosion, moderate noise pollution, dust, and other airborne pollutants, moderate the Town climate and shelter and feed its wildlife;
- (4) the growth and development attracted to the Town of Chapel Hill often necessitates the removal of trees, shrubs, and soils, thereby contributing to their depletion; and
- (5) it is necessary to protect and manage these valuable assets and their habitat in order to protect the health, safety, and welfare of citizens in Chapel Hill and its extraterritorial jurisdiction.

(c) Purpose

The Town Council declares the intent of this Section is to:

- (1) regulate the protection, installation, removal, and long-term management of trees, shrubs and soils in Chapel Hill and its extraterritorial jurisdiction;
- (2) encourage the proper protection and maintenance of existing trees, shrubs and soils on all public and some private lands as herein described now or hereafter in Chapel Hill and its extraterritorial jurisdiction;
- (3) charge the Town Manager to prescribe procedures for the proper protection, installation, and long-term management of landscape elements on all developing lands, all public and some private lands in Chapel Hill and its extraterritorial jurisdiction as herein described;
- (4) establish a system of permits to assure the correct planting, maintenance, protection, and removal of trees and soil on public and private property; and
- (5) establish penalties for violation of its provisions.

(d) Definitions

Terms used in this Section are defined in Appendix A of this Land Use Management Ordinance.

5.7.2 Permits Required

(a) Activities Requiring a Permit

Except as otherwise specifically exempted herein, it shall be unlawful to:

- (1) remove, prune, apply chemicals that are harmful to or disturb any tree or the soil within the critical root zone of any tree; or
- (2) clear vegetation from a site; or

- (3) begin any excavation, remove soil or place fill on a site within Chapel Hill and its extraterritorial jurisdiction until the Town Manager has issued a permit certifying that such activity complies with the applicable provisions of Sections 5.7.3, 5.7.4, 5.7.5 and 5.7.6 of this Section.

(b) Applicability

The provisions of this Article shall apply to any development except:

- (1) land in the Town's Office/Institutional-3 or Office/Institutional-4 zoning districts, provided, however, that Section 5.7.5 of this Article shall apply to all public and private lands within the Town planning jurisdiction;
- (2) routine maintenance of existing vegetation outside the public right-of-way, such as pruning, watering and fertilizing;
- (3) the removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, the burden of proof being placed on the remover;
- (4) the removal of soil or vegetation from undeveloped land to allow for noncommercial open space no greater than one-quarter (1/4) acre, providing this activity does not take place within the critical root zone of any rare or specimen tree;
- (5) land disturbing activity normally associated with the occupancy of an existing single-family or two-family dwelling;
- (6) any new construction or expansion of a single-family or two-family dwelling requiring a building permit and involving land disturbance less than 5,000 square feet, unless the land disturbance is cumulatively over 5,000 square feet.

(c) Permit Display

All permits issued hereunder shall be so displayed as to be clearly visible from a public right-of-way. In the case of annual permits, as described in Section 5.7.8(b), such permits shall be kept in vehicles at the work site.

(d) Emergency Waiver

The provisions of this Section are waived if compliance would hamper the rescue of life or property from immediate danger or the repair of utilities in the event of emergencies such as wind storms, ice storms, or other disasters. Any emergency work shall follow as closely as possible the standards outlined in the Town's Landscape Standards and Specifications.

(e) ***Enforcement***

Upon a determination that work does not conform with the provisions of this Section, the Town Manager shall issue a Stop Work Order which shall remain in effect until all corrections are made that are necessary to conform with this Article.

5.7.3 Permitted Activities and Standards Applicable to Undeveloped Land and Woodlands

(a) ***Area Protected***

Except as herein exempted, all undeveloped zoning lots within the Town's planning jurisdiction that are more than one-half (½) acre in size are hereby protected.

(b) ***Permitted Uses***

A Zoning Compliance Permit shall be required from and issued by the Town Manager for the following activities on undeveloped land;

- (1) the removal of rare or specimen trees as specified in Section 5.7.6; or
- (2) the practice of forestry as defined by North Carolina General Statute 105-277.2-.7. Such forestry shall be permitted only after an applicant submits a plan for harvesting and replanting consistent with the most current Forest Practices Guidelines Related to Water Quality published by the N.C. Department of Natural Resources and Community Development, or its successor agency.

5.7.4 Permitted Activities and Standards Applicable to Developing Land

(a) ***Landscape Protection Plan Required***

- (1) A Zoning Compliance Permit shall not be issued for development covered by provisions of this Section unless a Landscape Protection Plan is first approved by the Town Manager.
- (2) No person shall spray, prune, remove, cut above ground, or otherwise disturb any tree or the soil within the critical root zone of any tree on developing land without first obtaining a Zoning Compliance Permit and approval of a Landscape Protection Plan from the Town Manager.
- (3) All development activities on a site, including installation of public and private utilities, shall conform to the provisions of an approved Landscape Protection Plan.

(b) Landscape Protection Plan

- (1) The Town Manager shall prescribe the contents of Landscape Protection Plans and information that may be reasonably required to determine compliance with this Article, with sufficient copies for necessary referrals and records.
- (2) The Landscape Protection Plan shall:
 - A. describe the existing soil types, trees, vegetation, and other landscape elements of the development site;
 - B. identify areas where trees, vegetation and soils are to be protected and preserved and areas where trees, vegetation and soils are to be removed or modified; and
 - C. address measures of tree, vegetation and soil protection and management that will be used before, during and after all construction activities to promote the survival of such elements.
- (3) If vegetation identified for survival in the Landscape Protection Plan is dead or dying as determined by the Town Manager at the time of the issuance of a certificate of occupancy and is part of a required buffer, replacement of such vegetation shall be required if the Town Manager finds the buffer to be inadequate.
- (4) Otherwise, compliance with the Landscape Protection Plan shall establish a presumption that the requirements of this Section have been met.

(c) Surveying

No tree greater than six (6) inches in Diameter at Breast Height (DBH) shall be removed for the purpose of surveying without a permit issued by the Town Manager approving such action.

(d) Pre-Construction Conference

Prior to the commencement of any activities requiring a permit (see Section 5.7.2(a)), a pre-construction conference shall take place to review procedures for protection and management of all protected landscape elements identified on the Landscape Protection Plan and to designate one or more persons as Landscape Protection Supervisor(s) as described in Section 5.7.4(e).

(e) On-site Supervision

For all development other than that related to single-family and two-family dwellings on individual zoning lots, the following on-site supervision is required:

- (1) The applicant shall designate as Landscape Protection Supervisors one or more persons who have completed instruction and examination in landscape protection procedures with the Town and have received a Landscape Protection Certificate.
- (2) It shall be the duty of the Landscape Protection Supervisor to ensure the protection of new or existing landscape elements to be preserved, as defined in the Landscape Protection Plan. At least one identified Landscape Protection Supervisor shall be present on the development site at all times when activity is taking place that could damage or disturb such landscape elements. Such activities include:
 - A. clearing and grubbing;
 - B. any excavation, grading, trenching or moving of soil;
 - C. removal, installation or maintenance of all landscape elements and landscape protection devices; or
 - D. the delivery, transporting and placement of construction materials and equipment.
- (3) The approved Landscape Protection Supervisor(s) shall supervise all site work to assure that development activity conforms to provisions of the approved Landscape Protection Plan.

(f) *New and Required Plantings*

All new and required landscaping and preparation for landscaping shall be installed and maintained in accordance with the Town's Landscaping Standards and Specifications. All required plantings, as shown on an approved Landscaping Plan, must be planted or an accepted performance guarantee placed with the Town prior to the issuance of a Certificate of Occupancy for any part of the development covered by the Landscape Plan.

(g) *Protective Fencing*

- (1) Vegetation that is to be protected on developing land, as indicated on a Landscape Protection Plan, shall be protected by fences or other equally effective measures during construction activity. Such fencing shall be located and erected according to Town Standards and be located as shown on the Landscape Protection and Site Grading Plans. All land disturbing activity, storage of equipment, building material, soil and other debris shall be kept within the area of development activity and outside of the protective fencing.
- (2) Vegetation that is to be retained during right-of-way clearing of single-family or two-family residential subdivisions, as indicated on a Landscape Protection Plan, shall be delineated by high visibility flagging during construction activity. Such flagging shall be located and installed according to Town Standards and be

located as shown on the Landscape Protection and Site Grading Plans. The use of flagging shall be limited to those specific applications where no rare or specimen trees will be affected by development activity and the Town Manager determines it to be as effective as protective fencing.

- (3) Landscaping activities taking place after the removal of protective fencing shall be accomplished with light machinery or hand labor and in accordance with the Town's Landscaping Standards and Specifications.

(h) Treatment of Trees During Construction

- (1) No nails, ropes, cables, signs or fencing shall be attached to any part of any tree that is to remain.
- (2) Trees that are damaged during construction shall be treated so as to promote their continued health.

(i) Public Hazard

- (1) A Certificate of Occupancy may be denied for any lot if the Town Manager determines that a public hazard as defined in this Chapter exists on said lot, until that public hazard is abated.
- (2) A street constructed to Town standards and dedicated to the Town may not be finally accepted for maintenance at the end of the warranty period as covered by Chapel Hill Code Section 17-45 until any public hazard arising out of a tree, plant or shrub thereon, is abated by the developer of that street.

(j) Enforcement

- (1) The Town Manager shall have development sites inspected frequently to assure that work is conforming to the approved Landscape Protection Plan and the applicable sections of this Article.
- (2) Absence of a Landscape Protection Supervisor(s) from the site at times when development activity is taking place that has the potential to adversely affect landscape elements to be preserved or new landscape elements may result in the issuance of a Stop-Work order until a Landscape Protection Supervisor is present.

5.7.5. Public Land

(a) Permits Required

- (1) It shall be unlawful to:
 - A. plant, prune, remove, or apply chemicals that are harmful to or disturb any tree or the soil within the critical root zone of any tree; or
 - B. clear vegetation, begin any excavation, remove soil or place fill on all public land and easements owned or maintained by the Town within Chapel Hill or its extraterritorial jurisdiction without first obtaining a permit from the Town Manager.
- (2) All activities related to trees and landscaping on public land as herein defined shall conform to the Town's Landscaping Standards and Specifications.
- (3) The Town Manager shall issue the permit if the proposed work is in compliance with the Town's Landscaping Standards and Specifications.

(b) Tree Planting

- (1) All existing plantings of trees and shrubs on all public land and easements owned or maintained by the Town and all future additions and substitutions shall be under the authority and direction of the Town Manager.
- (2) Trees may be planted on the public street right-of-way of any public street provided they comply with any plan for public landscaping that has been approved by the State of North Carolina or the Town of Chapel Hill, that they will not hinder the repair or construction of public utilities and a permit has been issued by the Town Manager.
- (3) Trees or shrubs may be planted on the public street right-of-way of any other public street of a variety and in a location desired by the abutting property owner except that no trees or shrubs shall be planted close enough to any public street intersection to interfere with the sight distance at the intersection or interfere with streets, sidewalks, street lights or above and below-ground utility lines as specified in the Town's Landscaping Standards and Specifications.
- (4) All planting of trees and shrubs on public property shall be subject to general considerations of public health, safety and convenience, and the material and aesthetic value accruing to the whole community. Planting shall be restricted to the varieties known to be suited to the local climate and environment and shall be intended to preserve and enhance the beauty and variety of the public landscape as recommended in the Town's Landscaping Standards and Specifications.

(c) Prohibited Trees

It shall be unlawful to plant in any public right-of-way any of the following:

- (1) any trees which by the nature of their fruit, root system, brittleness of wood, or susceptibility to disease are deemed undesirable as specified in the Town's Landscaping Standards and Specifications;
- (2) any invasive exotic plant materials as identified in the Design Manual.

(d) Tree Maintenance

The Town will provide tree maintenance in the town center districts and on thoroughfares. The Town will not be responsible for the maintenance or replacement of shrubs planted on the right-of-way except those planted by the Town. Shrubs which are planted on the right-of-way of any public street and not properly maintained in a safe, healthy and attractive condition may be removed by the Town.

(e) Abuse and Mutilation of Trees

Except to abate a hazard as defined in Section 5.7.4(i), it shall be a violation of this Article to damage, destroy or mutilate any tree or shrub in a public right-of-way or any public place, or attach or place any rope or wire (other than one to support a young or broken tree), sign poster, handbill or any other thing to or on any tree or cause or permit any wire charged with electricity to come into contact with any such tree.

(f) Public Hazards

- (1) It shall be the duty of the owner of the property wherein or whereupon a public hazard exists, to abate the hazard by removing or trimming the growth. Trees on private property whose roots may damage sidewalks, curbs or public streets, by causing them to buckle or break or whose roots may enter into public sewers or water mains shall also be public hazards and may be trimmed or removed as deemed necessary by the Town Manager.
- (2) If the owner of property, after being notified of the existence of a public hazard on their property, fails to abate the hazard within thirty (30) days the Town Manager shall have the hazard abated and assess the exact cost to the owner as provided by law in the case of special assessments or liens.
- (3) Where the roots of a public tree or shrub constitute a hazard to private property, the affected property owner may prune or cut the offending roots at his/her property line, provided the tree is not a rare or specimen tree and the action will not create an unsafe condition. A permit for such cutting or pruning shall be granted only after the proposed work has been reviewed and approved by the Town Manager.

- (4) Where the growth and limbs of public trees constitute a hazard to private property, the Town, upon notice, shall correct the condition.
- (5) Where the growth of trees interferes with public utilities such conditions shall be corrected by proper pruning, removal or replacement of the tree causing the interference. Corrective measures shall be carried out in accordance with the provisions of this Article and the Town's Landscaping Standards and Specifications.

(g) Removal of Trees

- (1) Trees and shrubs shall not be removed from public property or public street rights-of-way without a permit issued by the Town Manager. Trees and shrubs on all public land and easements owned or maintained by the Town may be removed only when they are dead, dangerous to life and property, seriously diseased or constitute a public hazard, or where necessary to accommodate the construction of a public facility.
- (2) The Town retains the right to remove any tree on any public street or highway right-of-way or easement owned or maintained by the Town which is necessary to permit the proper maintenance or improvement of the public street except that no rare tree shall be removed from land or easements owned by the Town or any public street or highway right-of-way unless the Town Manager determines there is no reasonable way the land or street can otherwise be developed, improved or properly maintained and the tree saved.
- (3) The Town may remove dead or diseased trees from the public street right-of-way, easement owned or maintained by the Town on any public street. A tree on the line that is half or more than halfway on the right-of-way at its base will be considered to be on the right-of-way.
- (4) Existing public trees shall be preserved to the extent that it is possible and feasible. If removed they will be replaced where practicable.

(h) Construction and Repair Activity on or Adjacent to Public Land

- (1) A permit shall be required for:
 - A. any construction or repair activity;
 - B. any excavation of trenches or tunnels for the installation or repair of utilities; or
 - C. any laying of pavement taking place within the critical root zone of any rare or specimen tree on public land regardless of whether the critical root zone occupies public or private lands.

- (2) No construction or repair activities within the critical root zone of any rare or specimen tree shall take place until the Town Manager has approved a Landscape Protection Plan that indicates tree protection measures and preservation strategies as defined in Section 5.7.4(b).
- (3) All trees to be saved on streets or public land near any excavation or construction of any building, structure, or new streets shall be guarded with protective fencing or other equally effective measures consistent with Town Standards at a location specified in an approved Landscape Protection Plan. All construction material, dirt, or other debris shall be kept outside the protected area.
- (4) No person shall deposit, place, store, or maintain upon any public land, easement, street, or buffer strip any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, without having first obtained a Zoning Compliance Permit or Tree Work Permit from the Town Manager.

5.7.6 Rare and Specimen Trees

(a) Specimen Tree Defined

A specimen tree is any healthy living tree that:

- (1) has a trunk diameter at breast height (DBH) of 18 inches or more; or
- (2) a trunk DBH of 12 inches or more in the case of the following species:

Karpinus (Hornbeam)
Ilex spp. (Holly)
Magnolia spp.
Ostrya (Hophornbeam)
Tsuga spp. (Hemlock)

(b) Rare Tree Defined

A rare tree is any healthy living tree that:

- (1) has a trunk diameter at breast height (DBH) of 36 inches or more; or
- (2) a trunk DBH of 18 inches or more in the case of the following species:

Karpinus (Hornbeam)
Ilex spp. (Holly)
Magnolia spp.
Ostrya (Hophornbeam)
Tsuga spp. (Hemlock)

- (3) is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association; or
- (4) provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- (5) has been cited by the Town Council as being historically significant; or
- (6) represents an uncommon species, such as Long Leaf Pine, Live Oak or Sequoia Redwood, that the Town Manager considers to be desirable and not to pose a threat to the local ecological balance.

(c) *Rare and Specimen Trees on Developing Land*

- (1) Rare and specimen trees shall be shown on all preliminary Landscape Protection Plans if such trees are within one hundred (100) feet of areas where soil disturbance or construction activity is proposed. In addition, these trees shall be identified and located by survey on the approved Landscape Protection Plan if such trees are located on the development site or adjacent public property. The Town Manager may visit the site to determine the accuracy of identification.
- (2) Proposed development should be designed to maximize the preservation of rare and specimen trees. Where rare and specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities should be pursued in order to save them.
- (3) Notwithstanding any provision of the Land Use Management Ordinance to the contrary, saving of a rare or specimen tree shall constitute sufficient evidence that Sections 4.12.2(a) – (e) has been met in any variance application.
- (4) No soil disturbance from construction, trenching or grading, or paving, or storage of equipment or materials shall take place within the critical root zone of any rare or specimen tree to be preserved unless the Town Manager determines there is no reasonable way the property can be developed without such disturbance or unless the proposed work will be carried out in accordance with the specifications for such work in the Town's Landscaping Standards and Specifications.
- (5) No rare tree shall be removed from developing land unless the Town Manager determines there is no reasonable way the property can be otherwise developed, improved or properly maintained and the tree saved.

(d) *Voluntary Protection of Rare and Specimen Trees on Private Land*

- (1) Rare and specimen trees that are located on individual lots with single- and two-family homes shall be protected if voluntarily registered by the property owner.

- (2) Registration of such trees shall survive transfer of ownership if language is contained in the document transferring ownership and shall extend the coverage hereof and render the owner of the lot subject to the following privileges:
 - A. The owner shall be entitled to consultation with the Town Forester concerning proper care of the tree.
 - B. If a permitted auxiliary structure or addition to a house is being planned, notwithstanding any provision of the Land Use Management Ordinance to the contrary, saving of a rare or specimen tree shall constitute sufficient evidence that Section 4.12.2 of the Land Use Management Ordinance has been met in any variance application.
- (3) Once so registered, trees may be removed from the register at a later date at the request of the property owner.

5.7.7 Significant Tree Stands

The purpose of this Section is to encourage preservation of existing contiguous stands of trees. The Town hereby finds and determines that preserving contiguous stands of trees provides significant benefits exceeding the preservation of individual trees, including:

- Increased survivability rates; and
- More effective stormwater management; and
- More effective protection of air quality; and
- Preservation of biodiversity and a variety of plant species, including understory species.

(a) Significant Tree Stand Defined

For purposes of this Section, a “Significant Tree Stand” means an area of contiguous wooded area greater than 1,000 square feet with a continuous canopy exceeding thirty (30) feet in height and where:

Over fifty (50) percent of the trees with a DBH over six (6) inches are hardwoods; or the understory includes a diversity of beeches, hickories, hollies, or other native tree species as determined by the Town Manager that are indicative of a significant evolving Piedmont forest.

(b) Applicability

The provisions of this Section apply to any application requiring a Landscape Protection Plan.

(c) Submittal Requirements

A Landscape Protection Plan shall include a delineation of the boundaries of all significant tree stands and a description of their dominant plant species. All plans shall also show the proposed clearing limit lines and include a computation of the percentage of significant tree stand areas that are proposed to be cleared.

(d) Preservation of Significant Tree Stands

The Significant Tree Stand Delineation shall be used during the design review process to determine the most suitable and practical areas for woodland conservation. To the extent practicable, Significant Tree Stands shall be preserved and incorporated into site design. Areas designated for preservation on approved plans shall be accompanied by protection devices during construction.

5.7.8 Administrative Mechanisms

(a) Application Requirements

- (1) The Town Manager shall prescribe:
 - A. the form(s) for all applications called for in this Article; and
 - B. any information that may reasonably be required to determine compliance with this Article and with the Town's Landscaping Standards and Specifications.
- (2) Unless otherwise specified in this Article, for applications requiring Town Manager approval, action to approve or deny an application shall be taken by the Town Manager within fifteen (15) days of the acceptance of an application, or within such further time consented to by written notice from the applicant or by Town Council resolution.

(b) Permits

- (1) A permit shall be issued by the Town Manager for all activities requiring a permit as defined in Section 5.7.2, including but not limited to utility line clearance pruning, planting on public land and tree or soil disturbing repairs around existing trees. Permits will be issued only after a finding has been made by the Town Manager that all applicable provisions of this Article and the Landscaping Standards have been met.
- (2) Permits may authorize work for up to one year for ongoing utility maintenance and installation activities and may be renewed annually subject to continued compliance with conditions of the permit. Applications for annual permits shall be accompanied by a statement of measures that will be taken to protect and preserve trees and landscaping.
- (3) Permits for all other activities shall be issued by the Town Manager not less than two (2) working days before the work is to be done, except in the case of an emergency where action is required to protect the safety, health and welfare of the public, or the repair of utilities. Notice of completion of work shall be given within five (5) days of completion to the Town Manager for her/his inspection.

- (4) Any permit granted shall contain a date of expiration and the work shall be completed in the time allowed by the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

(c) Penalties

- (1) Any act constituting a violation of this Article resulting in the loss or destruction of trees or topsoil shall subject the landowner to a civil penalty equivalent to 1.5 times the monetary value of the trees or topsoil removed or destroyed up to a maximum of \$20,000. For purposes of such determination the Town Manager shall apply the most current formula of the Town Council of Tree and Landscape Appraisers, or a similar method in common use. In addition, trees so destroyed must be replaced with new trees whose total DBH equals that of the trees destroyed.
- (2) Development activity which has taken place in compliance with conditions of the Zoning Compliance Permit issued for that activity shall establish a presumption that the property owner has met the requirements of this Section. It shall be the duty of the permit holder to demonstrate that the activity was in compliance with the issued permit.
- (3) Unless otherwise specified in this Article, the Town of Chapel Hill shall enforce the provisions of this Article in accordance with procedures, penalties, and remedies described in Article 4 of the Land Use Management Ordinance.

(d) Appeals

Unless otherwise specified in this Article, interpretations, appeals, and variances of or from provisions of this Article shall be pursuant to the provisions of Article 4 of this Chapter.

(e) Fees

Reasonable fees sufficient to cover the costs of administration, inspection, appraisal, and publication of notice shall be charged to applicants for Zoning Compliance Permits and Tree Work Permits established by this Article. The amount of such fees shall be fixed by the Town Council.

5.8 Access and Circulation

5.8.1 External Circulation

- (a) All development shall have access to a publicly maintained street. No Zoning Compliance Permit or building permit shall be issued for any structure absent evidence of access to a publicly maintained street. Access may include direct access to a publicly maintained street or access via a recorded access easement across intervening property.

Every subdivided lot shall front on a public street meeting the standards of this section and of the Design Manual, including all required improvements such as sidewalks, curbs and gutters.

- (b) The type and arrangement of streets, driveways and public alleys within a development shall be in compliance with and coordinate to Chapel Hill's Transportation Plan.
- (c) Principal vehicular access points to the development shall be designed to encourage smooth traffic flow with minimum hazards to pedestrian, bicycle, and other vehicle traffic. Accommodations for controlled turning movements into and out of the development and improvement of the approach street shall be provided where existing or anticipated heavy traffic flows indicate need.
- (d) Whenever appropriate to the type, size, and location of development, the site shall be so arranged as to facilitate the future utilization or accommodation of public transportation.
- (e) Bicycle and pedestrian systems in the vicinity of the development site shall be extended to the site to the extent practicable. Access to the site shall be in compliance with and coordinate to existing and future town bicycle and pedestrian systems and the systems of adjacent developments. Bicycle, pedestrian and transit improvements shall be installed along all public streets within and on the external street frontage of the development, to the extent practicable, in accordance with provisions in the Chapel Hill Design Manual.
- (f) Access for cyclists and pedestrians shall be by safe and convenient routes which need not be limited to the vicinity of vehicular access points. Accommodations for safe intersections of bicycle and/or pedestrian routes with adjacent vehicular routes shall be provided where existing or anticipated heavy traffic flows indicate need.
- (g) Traffic impacts of proposed new development and redevelopment shall be considered in the review of applications. A Traffic Impact Analysis is required to identify and quantify the traffic impacts of proposed developments, and to identify facility improvements necessary to maintain acceptable levels of service. A Traffic Impact Analysis is required for the following applications, unless affirmatively exempted by the Town Manager: Major Subdivision, Special Use Permit, Special Use Permit Modification, and Site Plan Review. Guidelines and requirements for conducting Traffic Impact Analyses are available in the Town Engineering Department. The guidelines provide a standard process, set of assumptions, set of analytical techniques, and presentation format to be used in an Analysis. A set of criteria for exempting an application from the analysis requirement is included in the guidelines. Traffic Impact Analyses will be prepared by consultants under contract with the Town and the costs of the analyses will be included in the development application fees.

5.8.2 Internal Circulation

Purpose Statement: *The provisions of this Section are designed to ensure that internal circulation systems provide the types, amounts, and locations of accessibility appropriate to the type and size of the development, are designed so as to facilitate the movement of persons, goods, services, and waste products in a safe and efficient manner, maximize pedestrian and bicycle orientation with a minimum of impermeable surface, and provide safe and convenient vehicular access for emergency and service vehicles.*

(a) Generally

- (1) Streets, public alleys, bicycle circulation systems and bike lanes, pedestrian circulation systems and sidewalks, and bus stop amenities shall be provided and designed in accordance with the Design Manual.
- (2) The integration or separation of circulation systems and patterns shall be provided as appropriate to the type and size of the development and to the existing or anticipated traffic flows, as defined in the Design Manual.

(b) Projecting Streets

Where adjoining areas are not subdivided, the arrangement of Streets in the subdivision shall provide for the projection of Streets into such unsubdivided areas. Parcels shall be arranged to allow the opening of future Streets and logical further subdivision. Where necessary to the neighborhood pattern, existing Streets in adjoining areas shall be continued and shall be at least as wide as such existing Streets and in alignment therewith. Where Streets change design in alignment and width, the Applicant shall provide transition sufficient to ensure safe and efficient traffic flow. This Section is not intended to require Local designated streets to project into floodplains, bluffs or other natural features or existing development that has not made accommodations for connection.

(c) Reserve Strips Prohibited

There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.

(d) Non-access Easement

When deemed necessary, a vehicular non-access easement may be required on a lot(s) for the purpose of controlling ingress and egress to vehicular traffic.

5.8.3 Sight Line Triangle Easements

- (a) Where necessary to ensure proper visibility for the safe flow of vehicular traffic at street intersections and major driveway intersections with streets, sight line triangle easements shall be provided at the corners of such intersections in accord with the standards set forth in the Design Manual. Major driveways are considered to be those serving multifamily or non-residential developments.
- (b) No structure or planting that would interfere with safe sight lines shall be permitted within the sight line triangle easement.
- (b) Except within the Town Center Districts, off-street loading space shall be provided for all retail business, wholesale, and industrial uses as well as for any expansion of such uses or change in use requiring the regular delivery or shipping of goods, merchandise or equipment to site by semi-trailer trucks, in accord with the requirements of this Section. Loading required by development within the Town Center districts shall be provided through access to approved on-street loading spaces and/or public alleys provided in conformance with Chapel Hill's adopted plan for Town Center loading access.
- (c) In the case of mixed uses, the total requirements for off-street parking or loading space shall be the sum of the requirements for the various uses computed separately.

5.9 Parking and Loading

5.9.1 Off-Street Parking and Loading Required

- (a) Off-street bicycle and vehicular parking shall be provided for all uses of land, structures, and buildings as well as for any expansion of such uses or increase in the intensity of use in accord with the requirements of this Section.

5.9.2 Methods of Providing Required Parking and Loading

- (a) All required parking or loading space shall be located on the same zoning lot as the principal use(s) it serves, except as provided for below.
- (b) In lieu of actual construction of required on-site parking spaces, all or any portion of the off-street parking required in this Section may be provided by the following means:
 - (1) Required parking for a use on a zoning lot may be located on another zoning lot, either by itself or combined with parking for other uses, subject to certification by the Town Manager that the following requirements have been met:
 - A. The use being served by the off-site parking shall be a permitted principal use, as established in Section 3.7 in the zoning districts within which the zoning lot containing such parking is located;

- B. The off-site parking spaces shall be located within twelve hundred (1,200) feet walking distance of a public entrance to the structure or land area containing the use for which such spaces are required. A safe, direct, attractive, lighted and convenient pedestrian and bicycle route shall exist or be provided between the off-site parking and the use being served;
 - C. The continued availability of off-site parking spaces necessary to meet the requirements of this Section shall be ensured by an appropriate restriction on the title to the land providing the off-site parking spaces, in the form of a declaration, covenant, or contract;
 - D. For purposes of determining applicable minimum and maximum land use intensities, the land area devoted to off-site parking shall be added to the gross land area of the zoning lot containing the use being served by such parking and shall be subtracted from the gross land area of the zoning lot containing the off-site parking; and
 - E. For places of worship upon appropriate findings by the Town Council, off-site parking may be used to provide required parking without obtaining a restriction on the title to the land providing the off-site parking spaces. Appropriate findings shall include reasonable assurance of the continued availability of off-site parking and that sufficient space exists on the church's zoning lot to provide the required off-street parking should the off-site parking become no longer available.
- (2) For uses located within either Town Center zoning district, compliance with parking requirements may be achieved by making payments to the Town of Chapel Hill Parking Fund in accord with Chapter 11A of the Chapel Hill Code of Ordinances.
 - (3) For uses located within either Town Center zoning district, compliance with 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 Hill Code of Ordinances for a portion of the required spaces.

5.9.3 Shared Parking

Up to one-half (½) of the parking spaces required for one use may be used to satisfy the parking requirements for either a second use on the same zoning lot or a use for which the provisions of Section 5.9.2, above are utilized, subject to certification by the Town Manager that such joint usage of parking complies with the following provisions:

- (a) The peak usage of the parking facility by one use will be at night or on Sundays (such as with theaters, assembly halls, or places of worship), and the peak usage of the parking facility by the second use will be at other times, as provided below; or
- (b) The second use is an ancillary use to the first use, such as restaurants and meeting rooms to hotels and motels.

5.9.4 Use of Required Parking and Loading Space

- (a) Required parking areas shall be available for the parking of operable vehicles of residents, customers, and employees, and shall not be used for the storage of vehicles or materials, or for the parking of vehicles used for loading or unloading, or in conducting the use.
- (b) Required loading space shall be available for the loading and unloading of vehicles, and shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements, or in conducting the use.

5.9.5 Parking Design Standards

All parking areas shall meet the following minimum design requirement:

- (a) Ingress to and egress from parking areas shall conform to the Design Manual.
- (b) In the Town Center, TND or TOD districts, if a setback is provided between a principal structure and a street, such setback shall not be used for off-street parking.
- (c) Except for single- or two-family dwellings, all parking spaces and maneuvering space shall be surfaced with an all-weather material or gravel, which shall be maintained in a safe and sanitary condition.
- (d) No parking area or maneuvering space shall be located within a public street right-of-way. Parked vehicles in off-street parking spaces shall be prevented from intruding on travel lanes, walkways, public streets, or adjacent properties by means of walls, curbs, wheel stops, or other appropriate means.
- (e) The size of parking spaces shall be adequate for the safe parking of vehicles and maneuvering space shall be provided so that parking and unparking can be accomplished in one continuous maneuver. Parking facilities designed to accommodate five (5) or more vehicles shall be designed in accord with the standards for stalls and aisles as set forth in the Standard Details and Specifications.
- (f) Curbed islands shall be required at the ends of or between parking aisles where necessary for traffic control or drainage control.
- (g) Except for single- or two-family dwellings, parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter adjacent streets in a forward manner.

- (h) Parking facilities shall be designed to connect with parking facilities on adjacent zoning lots where appropriate to eliminate the need to use the abutting street(s) for cross movements.
- (i) All off-street parking facilities shall be provided with a drainage system meeting the design standards contained in Section 5.4.
- (j) All lighting of and within parking facilities shall conform to the lighting design standards contained in Section 5.11.
- (k) Adequate provision shall be made for the ventilation, dispersion, and removal of smoke and gases from above-ground and below-ground parking structures.
- (l) Parking facilities designed to accommodate five (5) or more vehicles shall provide areas as necessary for the parking of motorcycles, mopeds, and bicycles. Such areas shall be clearly defined and reserved for the exclusive use by motorcycles, mopeds, and bicycles.
- (m) Parking facilities designed to accommodate twenty-five (25) or more vehicles shall provide, as part of the required number of parking spaces, at least one handicapped parking space at least twelve (12) feet in width for every fifty (50) standard parking spaces, or major fraction thereof, or such number as required by building code. Such spaces shall be clearly defined and reserved for the exclusive use by handicapped persons.
- (n) Parking facilities shall be designed with walkways and lighting to facilitate safe walking movements to and from parked vehicles.

5.9.6 Parking Landscaping Standards

Purpose Statement: It is the intent of this subsection to protect and promote the public health, safety, and general welfare by requiring the landscaping of parking areas which will serve to reduce radiant heat from surfaces, to reduce wind and air turbulence, to reduce noise, to reduce the glare of automobile lights, to ameliorate stormwater drainage problems, and to protect and preserve the appearance, character, and value of adjacent properties.

Except for one- or two-family dwellings, all parking facilities, unless located entirely underground, shall meet the following minimum landscaping requirements:

- (a) Parking facilities, unless located on or within a structure, shall be separated from the exterior wall of a structure, exclusive of paved pedestrian and bicycle entrance ways or loading areas, by a buffer strip at least five (5) feet in width, which shall be landscaped in accord with Town landscaping standards.
- (b) Entryways into parking facilities shall be bordered by a buffer strip a minimum of eight (8) feet in width, which shall be landscaped in accord with Town landscaping standards.

- (c) Ground-level parking facilities and the ground level of parking structures shall be screened from adjacent streets by means of an effective screening device which is at least three (3) feet in height above the grade of the edge of the parking area. Ground-level parking facilities and the ground level of parking structures shall be screened from adjacent properties zoned Residential by means of an effective screening device which is at least six (6) feet in height above the grade of the edge of the parking area. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the required height within two (2) years of planting, or any combination of the above.
- (d) Vegetation shall be provided within and adjacent to ground-level parking areas which will, in the opinion of the Town Manager, be sufficient to achieve shading of at least thirty-five percent (35%) of the parking area surface on noon on August 21 when the vegetation matures. The Applicant shall be responsible for maintaining such vegetation in a safe and sanitary condition.
- (e) In providing the vegetation required herein, the retention of existing significant vegetation shall be encouraged.

5.9.7 Minimum Off-Street Parking Space Requirements

The following minimum bicycle parking requirements shall apply for the appropriate use and zoning district. Bicycle parking requirements shall not apply for uses located within the Office/Institutional-3 or Office/Institutional-4 Districts.

Use	Minimum number of bicycle spaces
Industrial and Office	10% of auto parking spaces
Commercial/Retail	10% of auto parking spaces
Multi-family Residential	1 space per dwelling unit, plus 10% of auto parking spaces
Recreation	25% of auto parking spaces
School	1 space per 3 students, plus 1 space per 10 faculty/staff
Park/Ride, Transit Center	10% of auto parking spaces

The following minimum vehicular parking space requirements shall apply for the appropriate use and zoning district. Parking space requirements shall not apply for uses located within the Office/Institutional-3 or Office/Institutional-4 Districts.

A reduction of up to twenty percent (20%) of the minimum number of required parking spaces may be permitted through the granting of a minor variance by the Board of Adjustment if, based on substantial evidence in the record of its proceedings, the Board finds that compliance with the full minimum off-street parking space requirements of this section would necessitate the removal of or would seriously endanger significant specimen trees on or adjacent to the zoning lot on which such parking is required.

Minimum Number of Vehicular Parking Spaces

Use	TC-1 and TC-2 Districts	Districts other than TC and OI-3
Automotive, trailer, and farm implement sales or rental	1 per 500 sq. ft. of enclosed exhibit area	1 per 500 sq. ft. of enclosed exhibit area
Bank	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Business, convenience Restaurant	1 per 400 sq. ft. of floor area	1 per 4 seats
Other convenience business	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Business, general	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Business, office-type	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Clinic	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Dwelling, single-family	1 per dwelling unit	2 per dwelling unit
Dwelling, two-family or multi-family:		
Efficiency	1 per dwelling unit	1 per dwelling unit
1 or 2 bedrooms	1 per dwelling unit	1.5 per dwelling unit
3 or more bedrooms	1 per dwelling unit	2 per dwelling unit

Note: The minimum number of parking spaces required for elderly or handicapped dwellings may be reduced to 1 per 2 dwelling units upon findings made by the Town Council that (1) reasonable assurances exist that the dwelling units served by the parking spaces will be maintained for occupancy by the elderly or handicapped and/or (2) that sufficient livability space exists on the property to ensure that should the units be converted to another form of occupancy or use, that sufficient parking can be provided on the site to satisfy the parking requirements of the new use, without violating the land use intensities of Table 3.8-1.

Minimum Number of Vehicular Parking Spaces

Use	TC-1 and TC-2 Districts	Districts other than TC and OI-3
Fraternity or sorority house	1 per resident	1 per resident
Group care facility	1 per 2 beds	1 per 2 beds
Hospital	1.5 per bed	1.5 per bed
Hotel or motel	1 per lodging unit	1 per lodging unit
Maintenance and/or storage facility	N/A	1 per 2 employees if 2 largest shifts combined
Manufacturing, light	N/A	
Mobile home	N/A	
Mobile home park	N/A	1 per unit
Personal services	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Place of assembly	1 per 4 persons the use is designed to accommodate	1 per 4 persons the use is designed to accommodate
Place of worship	N/A	1 per 4 seats in the sanctuary, except for places of worship within 1,500 feet of a Town Center District, which are exempted from parking requirements
Public cultural facility	1 per 500 sq. ft. of floor area	1 per 500 sq. ft. of floor area
Public use facility	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Research activities	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Residence hall	1 per 2 residents	1 per 2 residents

Minimum Number of Vehicular Parking Spaces

Use	TC-1 and TC-2 Districts	Districts other than TC and OI-3
Residential support facility	1 per 500 sq. ft. of floor area	1 per 500 sq. ft. of floor area
Rooming house	1 per lodging unit	1 per lodging unit
School, elementary	1 per staff member	1 per staff member
School, secondary	1 per 4 students	1 per 4 students
Shelter	1 per 1,000 sq. ft. of floor area	1 per 1,000 sq. ft. of floor area
Tourist home	1 per lodging unit	1 per lodging unit

In the case of a use not listed above, the minimum parking space requirement shall be determined by the Town Manager. In making such determinations, the Town Manager shall be guided by the requirements for similar uses, the number and kind of vehicles likely to be attracted to the use, and studies of minimum parking space requirements for such use in other jurisdictions.

Minimum parking requirements for an individual site may be reduced by the Town Council in the context of a Special Use Permit approval, or the Planning Board in the context of a Site Plan Review approval, if evidence is submitted to demonstrate and the Town Council finds that:

- (a) Sidewalks, bicycle facilities, transit service and transit amenities are in place such that, together with the number of parking spaces that are proposed, transportation needs are adequately served; or
- (b) The particular use that would be specified in the Special Use Permit is of a nature that generates lower-than-average trips, and that the Special Use Permit would limit use of the property to what is specified; or
- (c) Arrangement for shared parking with nearby facilities is ensured.

5.9.8 Loading Space Design Standards

All loading spaces shall meet the following minimum design requirements:

- (a) Off-street loading spaces shall be located and arranged so that a semi-trailer truck (WB 43 Design Vehicle) shall be able to gain access to and use such spaces by means of one continuous parking maneuver.
- (b) Loading space shall observe the minimum street and interior setbacks established for structures in Section 3.8 of this Chapter.
- (c) All loading space and maneuvering space shall be surfaced with an all-weather material which shall be maintained in a safe and sanitary condition.
- (d) No loading space shall be located so that a vehicle using such space intrudes on travel lanes, walkways, public or private streets, or adjacent properties.
- (e) Each required off-street loading space shall have a minimum width of twelve (12) feet, a minimum depth of fifty-five (55) feet, and a vertical clearance of fourteen (14) feet above finished grade of the space.
- (f) Loading areas shall be screened from adjacent streets and adjacent properties by means of an effective screening device which is at least six (6) feet in height above the grade of the loading area. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the required height within two (2) years of planting, or any combination of the above.

5.9.9 Parking in Front Yards

(a) Applicability

The restrictions of this Section shall apply to single-family and two-family dwellings in all zoning districts.

(b) Generally

Parking and drive areas located in front yards (between the street and a line drawn parallel to the street from the point of the house that is closest to the street) shall be maintained in a safe and sanitary condition, shall not contribute to soil erosion or to tree damage, and shall be clearly designated and covered with an all weather surface or gravel.

(c) Coverage

Parking and drive areas shall be limited to 40% of the front yard area of any zoning lot. Access to front yard parking shall be limited to properly approved curb cuts or other approved access points.

(d) Exceptions

The Town Manager may grant an exception to subsection (c) where he/she finds all of the following conditions to exist on the property:

- (1) The parking area is clearly defined and or marked; and
- (2) The parking area is maintained in a safe and sanitary condition; and
- (3) The parking area does not contribute to soil erosion or tree damage; and
- (4) Access to front yard parking shall be limited to properly approved curb cuts or other approved access points; and
- (5) The location and dimension of such parking area is traditionally and customarily associated with the subject structure; and
- (6) If the parking lot is located in the Historic District, the Historic District Commission grants a Certificate of Appropriateness for the parking area.

The Town Manager may grant an exception to subsection (c) where he/she finds that environmental constraints preclude parking elsewhere.

5.9.10 Minimum Off-Street Loading Space Requirements

The following minimum loading space requirements shall apply for the appropriate use:

Use	Minimum Number of Loading Spaces
Business, convenience or general	1 for floor area of 10,000 - 29,999 square feet; 2 for floor area of 30,000 square feet or more.
Maintenance and/or storage facility, light manufacturing, or supply yard	1 per 10,000 square feet of floor area not to exceed 3 spaces

5.10 Disability Access

Except for single- and two-family dwellings, all buildings and facilities shall be accessible to and usable by the physically handicapped in accordance with the building code provisions contained in Chapter 5 of the Town Code of Ordinances.

5.11 Lighting Standards

Purpose statement: *This Section provides standards for lighting that shall be designed to minimize spillover of light onto adjacent property, glare that could impair vision, and/or other conditions that deteriorate normally accepted qualities and uses of adjacent property.*

5.11.1 Applicability

The provisions of this Section apply to any outside lighting used around buildings, recreation areas, parking areas, walkways, drives, or signs.

Lighting sources shall be shielded or arranged so as not to produce within any public right-of-way glare that interferes with the safe use of such right-of-way and so as not to constitute a nuisance to the occupants of adjacent properties.

5.11.2 Mounting Heights

Outdoor lighting, except sports and athletic field lighting, shall be mounted at heights no greater than fifteen (15) feet for non-cutoff lights; and no greater than thirty-five (35) feet for full cutoff lights.

5.11.3 Sports Fields

Lighting for sports and athletic fields must include glare control features and must be designed so that primary illumination is directed onto the play area and ancillary areas such as bleachers, stands, and similar areas. All lighting fixtures for sports fields shall be equipped with a glare control package including louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.

5.11.4 Offsite Illumination

Increases in illumination on off-site property shall not result in lighting levels in excess of 0.3 foot-candles, measured at ground level. Where existing ambient off-site lighting levels are in excess of 0.3 foot-candles, no increase in measurable off-site lighting levels will be allowed as a result of outdoor lighting in the development.

5.11.5 Buildings, Streets, Driveways and other Passageways

Except for single- and two-family dwellings, all streets, driveways, bikeways, sidewalks, pedestrian paths, parking areas, and other common areas and facilities shall be lighted where necessary to ensure the security of property and the safety of persons using such streets, driveways, bikeways, sidewalks, pedestrian paths, parking areas, and other common areas and facilities. Specific standards for and restrictions on lighting are included in the Town's Design Manual.

All principal entrances and exits to principal buildings used for nonresidential purposes or containing more than five (5) dwelling or lodging units shall be sufficiently lighted to ensure the safety of residents and the security of the building.

5.11.6 Submittals

Each application for a Zoning Compliance Permit for development other than a single-family or two-family dwelling shall include a lighting plan that shows existing and proposed lighting fixture types and locations. The plan shall indicate, by isolux contour diagram and grid points, the measured and calculated pre-development and post-development foot-candles at grade both on the development site and on adjacent property where lighting impacts are expected. The lighting plan must be sealed by a Professional Engineer with demonstrable expertise in lighting design and mitigation strategies, or a lighting specialist who is Lighting Certified (LC) by NCQLP (National Town Council on Qualifications for the Lighting Professions).

5.12 Utilities

5.12.1 Water and Sewerage

(a) Service by Public Systems

- (1) All development within the boundaries of Chapel Hill's Urban Services Area, as defined in the Comprehensive Plan, shall be served by a public water supply and a public sanitary sewer system. No Zoning Compliance Permit or building permit shall be issued for any structure within the Town's Urban Services Area (as defined in the Comprehensive Plan), absent evidence that the structure can be served by public water and sewer facilities. Existing development not served by public water and sewer shall not be considered as nonconforming within the meaning of Article 7 of this Chapter. Provided however that permits may be issued to authorize the reconstruction, rehabilitation, renovation, or expansion of a development existing on or before January 27, 2003, whether or not such development is served by a public water supply and a public sanitary sewer system, subject to applicable regulations, including demonstration of compliance with County Health Department regulations.
- (2) Fire hydrants of sufficient water pressure to provide adequate fire protection shall be provided where necessary, as determined by the Town Manager.

- (3) All proposed public water and sanitary sewer installations shall be approved by the Orange Water and Sewer Authority (OWASA). Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served.
- (4) No building permits shall be issued until all required water mains and fire hydrants are installed and operational. For purposes of this subsection, “operational” means that the water mains and fire hydrants are capable of delivering sufficient water to meet domestic and fire fighting needs.
- (5) No Certificate of Occupancy for a structure shall be issued until the following documents have been submitted to the Town Manager:
 - A. Certification from the Orange Water and Sewer Authority that all water and/or sewer facilities necessary to serve such structure have been completed to the Orange Water and Sewer Authority standards; and
 - B. As-built construction drawings of those completed water and/or sewer facilities located within a public right-of-way or easement.

(b) Service by Individual Systems

- (1) Individual water supply systems intended to provide potable water are permitted outside of the Urban Services Area, subject to approval by the appropriate County Health Department. Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served.
- (2) Individual subsurface sewage disposal systems are permitted outside of the Urban Services Area, subject to approval by the appropriate County Health Department. Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served. A lot with an individual subsurface sewage disposal system shall also have a replacement field location approved by the appropriate County Health Department.

5.12.2 Other Utilities

- (a) All utility lines other than lines used only to transmit electricity between generating stations or substations shall be placed underground, and all surface disruptions required for installation shall be rehabilitated to the original or an improved condition. Three-phase electric power distribution lines are not required to be placed underground except as provided in subsection (b), below.
- (b) Three-phase electric power distribution lines
 - (1) Three-phase electric power distribution lines shall be placed underground if:

- A. Duke Energy agrees in a written statement to provide utilities underground; and
- B. Three-phase lines shall be placed underground by the applicant where:
 - (a) there is a rational nexus between the impact of the proposed development and the proposed utility requirement; and
 - (b) the costs of placing the utilities underground are roughly proportionate to the impacts of the development on adjoining properties or the Town; and
 - (c) placing the utility underground does not violate any provision of the electrical code or other relevant safety standard; and
 - (d) the applicant has the legal right to place the lines underground where they are located off-site.
- (2) Three-phase lines are not required to be placed underground if the applicant or Duke Energy demonstrates that the burial would create economic hardship or a danger to public health or safety as it relates to the size, nature, timing, and scope of the proposed development.
- (c) A letter or letters certifying the availability of immediate service from each of the other utilities (electric, gas, telephone, cable television) serving a structure shall be submitted to the Town Manager prior to issuance of a Zoning Compliance Permit for such structure.
- (d) No Certificate of Occupancy for a structure shall be issued until the following documents or certifications from the appropriate utilities that all facilities necessary to provide electric, gas, telephone, and/or CATV service to such structure have been completed to the standards of the appropriate utilities have been submitted to the Town Manager.

5.13 Solid Waste Collection and Recycling

- (a) All developments shall provide a detailed solid waste management plan, including a recycling plan and a plan for managing and minimizing construction debris, subject to approval by the Town Manager.
- (b) All developments shall provide secure, safe, and sanitary facilities for the storage and pickup of solid waste and recyclables. Such facilities shall be convenient to collection and shall be appropriate to the type and size of the development being served.
- (c) Except for single- and two-family dwellings, all solid waste and recyclables storage facilities shall be screened by a solid wall, fence, tight evergreen hedge, or combination of the above. Such screening shall be of sufficient height and design to effectively screen the facility from the view from adjacent residential uses and streets, and from adjacent properties.

5.14 Signs

5.14.1 Intent

It is the intent of this Section to authorize the use of signs with regard to size, layout, style, typography, legibility, and arrangements compatible with their surroundings; appropriate to the identity of individual properties, occupants, or of the community; and as appropriate to traffic safety.

5.14.2 Signs Subject to Control

Unless specifically exempted, no sign visible from the public right-of-way, whether exterior to or interior to a structure, shall be erected, displayed, or substantially altered except in accord with the provisions of this Chapter and until a Zoning Compliance Permit has been issued therefore.

5.14.3 Signs Exempt from Regulation

The following signs are exempt from regulation and permit requirements under this Section provided such signs comply with the provision of Section 5.14.4 and provided that neon tube and like illumination shall be prohibited except as permitted in Section 5.14.8.

- (a) Signs bearing only property identification numbers and names, post office box numbers, names of occupants of the premises on which the signs are located, or other identification of premises not of a commercial nature, provided such signs are not illuminated and do not exceed two (2) signs per zoning lot nor two (2) square feet in area per display surface.
- (b) Flags and insignia of a government, when not displayed in connection with a commercial promotion.
- (c) Legal notices, identification and informational signs, and traffic directional or regulatory signs erected by or on behalf of a governmental body.
- (d) Memorial signs or tablets, and names and construction dates of buildings when cut into any masonry surface.
- (e) Signs directing and guiding traffic and parking on private property on which the signs are located, provided such signs are not illuminated, bear no advertising matter, and do not exceed four (4) square feet in area per display surface.
- (f) Real estate signs advertising the sale, rental, or lease of the premises on which said signs are located, provided such signs do not exceed one sign per street frontage and four (4) square feet in area per display surface for property zoned residential; sixteen (16) square feet per display surface for property zoned non-residential or located within an approved planned development other than a PD-H; and are removed immediately after sale, rental, or lease of the premises.

- (g) Construction site identification signs whose message is limited to project name, identification of architects, engineers, contractors, and other individuals or firms involved with the construction, the name of the building, the intended purpose of the building, and the expected completion date. Construction site identification signs may not exceed four (4) square feet in area per display surface and six (6) feet in height for single family or duplex construction; and thirty-two (32) square feet in area per display surface and eight (8) feet in height for multi-family or non-residential construction. Such signs shall be non-illuminated and consist of light letters on a dark background. Construction site identification signs may not exceed one sign per construction site, and are not to be erected prior to the issuance of a Building Permit, and are to be removed within seven (7) days of issuance of a Certificate of Occupancy.
- (h) Temporary political signs advertising candidates or issues, provided such signs do not exceed four (4) square feet in area per display surface, and provided that any such signs, on private property, are removed within seven (7) days after the election; and provided further that any such signs in the public right-of-way are not erected prior to forty-five (45) days before the date of the appropriate election and are removed within twelve (12) days after the election.
- (i) Yard or garage sale signs announcing yard or garage sales, provided such signs do not exceed one sign per site of such sale nor four (4) square feet in area per display surface, and are removed within seven (7) days of erection.
- (j) Public event announcements by public or non-profit organizations of special events or activities of interest to the general public, provided such signs do not exceed one sign per site of such events or activities nor twelve (12) square feet in area per display surface, and are removed within fourteen (14) days of erection.
- (k) Temporary signs announcing grand openings of new businesses only, provided such signs are attached to the building in which the business is located, do not exceed thirty-two (32) square feet of display area per business site, and are displayed for a period not to exceed twenty-one (21) days.
- (l) Signs in the Town Center-1 and -2 districts that are no more than six (6) square feet in area per display surface. This provision applies only to changeable or moveable signs that are limited to one (1) sign per business, located in front of the business identified on the sign. Changeable or moveable signs are those non-illuminated signs that change or are moved on a daily basis.
- (m) Information kiosks or bulletin boards erected by or on behalf of a governmental body on public property or rights-of-way in the Town Center districts for the display of handbills or posters of community interest, provided such kiosks or bulletin boards contain no more than six (6) square feet in area per sign display surface, and a maximum of seventy-two (72) square feet per kiosk or bulletin board.

- (n) Signs stating that a business other than a home occupation is open, provided that there is no more than one such sign per business establishment, and provided that such sign does not exceed two (2) square feet in display area.
- (o) Non-commercial signs not covered by other exemptions listed in this Section, provided such signs are located on private property and are non-illuminated.
- (p) Window signage for businesses in Town Center-1 and Town Center-2 zoning districts, provided that the window signage shall not exceed fifteen percent (15%) of the area of the window.

5.14.4 Traffic Safety Precautions

Notwithstanding any other provision in this Chapter, the following restrictions shall apply to signs in order to preserve the safety of pedestrian, bicycle, and vehicular movement:

- (a) No sign, or part thereof, shall be located within a clear-vision area established by the Design Manual.
- (b) No sign shall make use of the words "STOP", "SLOW", "CAUTION", "DANGER", or any other word, phrase, symbol, or character in such manner as is reasonably likely to be confused with traffic directional and regulatory signs.
- (c) No sign shall be erected so that by its location, color, nature, or message is likely to be confused with or obstruct the view of traffic signals or signs, or is likely to be confused with the warning lights of an emergency or public safety vehicle.
- (c) Except as used to display time and temperature, no sign shall contain flashing lights.

5.14.5 General Limitations

- (a) Except where specifically exempted by this Article, the subject matter of any sign shall be limited to letters of text that spell out the name(s) of the establishment(s) located on the zoning lot.

In addition to the name(s) of the establishment(s), registered trademarks and registered servicemarks may also be displayed, if proof of registration, or application for registration, is provided. A trademark is any symbol, design, word or letter used by an establishment to distinguish its products from those of its competitors. A servicemark is a trademark for products provided by others, for which a particular establishment is authorized/licensed to provide services. Registered logos may only be displayed as a trademark for an establishment.

- (b) Except where specifically exempted by this Chapter, the subject matter of any sign shall be related to the premises on which the sign is located. When the use or establishment to which a sign is related ceases or is vacated, such sign, including all of its attendant supports, frames, and hardware, shall be removed within four (4) months of the cessation or vacating of the use or establishment unless such sign is used by a new use or establishment on the premises in conformance with all current regulations of this Chapter.

- (c) Except where specifically exempted by this Chapter, all signs, including the supports, frames, and embellishments thereto, shall not be located within any public right-of-way, nor shall any sign be attached, affixed, or painted on any utility pole, light standard, telephone or telegraph pole, any tree, rock, or other natural object.
- (d) No display surface shall contain more than ten (10) items of information except where the name of the occupant of the premises contains more than ten (10) items of information and the display surface contains only the name of the occupant. An item of information means any of the following: a word; an abbreviation; a number; a symbol; a geometric shape. In computing items of information, letters less than three (3) inches in height, if contained in a wall sign, shall not be counted. When there is more than one occupant on the premises, ground signs shall be limited to either the name of the development and a maximum of two anchor tenants, or a maximum of three (3) designated anchor tenants (and no name of the development).
- (e) No source of illumination of a sign, such as floodlights or spotlights, shall be directly visible from any public right-of-way, from any Residential district, or from adjacent properties.
- (f) Internally illuminated signs, other than window signs, shall consist of a dark background and light letters or message. The letters or message of internally illuminated signs shall consist of non-reflective material.
- (g) Animated, rotating, or other moving or apparently moving signs shall be prohibited.
- (h) Devices consisting of banners, streamers, pennants, wind-blown propellers, strung light bulbs, and similar installations shall be prohibited unless approved by the Town Manager for non-commercial enterprises.

5.14.6 Sign Area and Number

- (a) The area of a display surface of a sign shall be computed as including the entire area visible from any one point, within a regular geometric form or combination of forms, comprising all of the display area of the surface and including all of the elements within the display area and the sign frame. Structural members not bearing advertisement shall not be included in the computation of sign area.
- (b) For the purpose of determining number of signs, a sign shall be considered to be a single display device that contains elements organized, related, and composed to form a unit. Where elements are displayed in a random manner without organized relationship, each element shall be considered a single sign.

5.14.7 Signs in Residential, Materials Handling, and Rural Transition Districts and in PD-H Developments

No sign shall be erected or displayed in any Residential, Materials Handling, or rural Transition district or in any Planned Development-Housing except as allowed under Section 5.14.3 or as provided below:

- (a) Development identification signs containing the name and/or logo of a subdivision, multifamily development, or planned development, provided such signs are limited to one free-standing ground sign at each principal point of access to the development, sixteen (16) square feet in area per display surface, and a maximum height of six (6) feet above finished grade; or two (2) signs mounted on wooden, brick, or stone entry walls, eight (8) square feet per display surface, and a maximum height of six (6) feet above finished grade.
- (b) Nonresidential signs identifying nonresidential uses permitted as a principal or special use in Residential, Materials Handling, or Rural Transition districts or as an accessory use in PD-H developments provided such signs are limited to one ground sign or one wall sign per zoning lot and sixteen (16) square feet in area per display surface.
- (c) Ground signs identifying places of worship in Residential districts, provided that such signs are limited to sixteen (16) square feet in area per display surface, and one ground sign per street frontage, not to exceed a maximum of two ground signs per zoning lot. The message of ground signs for places of worship in Residential districts shall be limited to the name(s), trademarks and servicemark(s) of the place of worship, and information related to the place of worship and its activities on the zoning lot.
- (d) External lighting of signs in Residential, Materials Handling, and Rural Transition Districts and in PD-H Developments is permitted if illumination levels are low, all fixtures are concealed, and spill-over of light is minimal. Internal illumination of signs in Residential, Materials Handling, and Rural Transition Districts is prohibited.

5.14.8 Signs in TC-2, TC-1, CC, NC, OI-4, OI-3, OI-2, OI-1 and I Districts

- (a) No sign shall be erected or displayed in the Town Center districts or in any Community Commercial, Neighborhood Commercial, Office/Institutional-3, Office/Institutional-2, Office/Institutional-1 or Industrial district except as allowed under Sections 5.14.3, or as provided below for the type of sign and the zoning district in which it is located.
- (b) Where a zoning lot contains more than one principal use or establishment, the provisions below shall apply to the zoning lot as a whole, and the owner(s) of the zoning lot shall be responsible for allocating permitted signs and display surface areas among the individual uses or establishments. The sign plan submitted for such zoning lot shall show all signs located or proposed thereon and shall be designed so that all signs are in harmony and consistent with each other. Such a sign plan shall be referred to as a Unified Sign Plan for the zoning lot.
- (c) A Unified Sign Plan is an overall plan for placement and design of multiple signs for a building or group of buildings on a zoning lot. The Unified Sign Plan shall display harmony and consistency with regard to theme, number and size of signs, placement of signs, materials and colors, size and style of lettering, and type of lighting.

(1) Ground Signs

A ground sign is a free-standing sign attached to a contiguous structural base or planter box, which base or box shall be of the same width as or greater width than the message portion of the sign, and is permanently affixed to the ground. Ground signs do not include free-standing signs supported by poles.

Ground signs may be erected and displayed on a zoning lot in compliance with the maximum area per display surface and the maximum height limitations contained in Subsection 5.14.10, provided:

- A. The zoning lot on which a ground sign is located shall be accessible by automobile and contain off-street parking for the principal use(s);
- B. The buildings or structures housing the principal use(s) on a zoning lot on which a ground sign is located shall be set back at least twenty (20) feet from the abutting street right-of-way;
- C. Ground signs shall be limited to a maximum height of eight (8) feet;
- D. Ground signs shall be limited to one sign per street frontage, provided that the zoning lot on which the sign is located has at least one hundred (100) feet of street frontage;
- E. No ground sign shall be permitted on the same street frontage of the same zoning lot along which there is a projecting sign;
- F. The message of ground signs shall be limited to the name(s), trademark(s) and servicemark(s) of the establishment(s) located on the zoning lot and/or of a multi-use development located thereon, except that ground signs identifying cinemas, gas stations, or service stations may also identify the current presentation(s) or fuel prices, as appropriate, and that ground signs identifying places of worship may also provide information related to the place of worship and its activities on the zoning lot. The amount of "changeable text" for such ground signs for cinemas, gas stations, service stations, or places of worship, shall be limited to a maximum of 50 percent of the sign's overall display area.
- G. The maximum area per display surface for ground signs as contained in Subsection 5.14.10 may be doubled by reducing the allowable wall sign area for the zoning lot by an equivalent amount.
- H. Ground signs shall be of a shape such that the ratio between the maximum and minimum dimensions shall not exceed 2 to 1.

(2) Cantilevered Ground Signs

A cantilevered ground sign is a sign supported in a cantilevered fashion by an upright post. Cantilevered ground signs may be erected and displayed on a zoning lot, in lieu of a traditional ground sign, provided that:

- A. Cantilevered ground signs shall be limited to one sign per street frontage.
- B. The display area of a cantilevered ground sign shall not exceed three (3) square feet in area and eight (8) feet in height. No portion of the sign and its support shall exceed ten (10) feet in height.
- C. The buildings or structures housing the principal use(s) on a zoning lot on which a cantilevered ground sign is located shall be set back at least twenty (20) feet from the abutting street right-of-way.
- D. No cantilevered ground sign shall be permitted on the same street frontage of the same zoning lot along which there is a projecting sign.
- E. The message of cantilevered ground signs shall be limited to the name(s), trademark(s) and servicemark(s) of the establishment(s) located on the zoning lot and/or of a multi-use development located thereon.

(3) Projecting Signs

A projecting sign is a sign attached to and supported by a building and extending beyond the building to which it is attached at an angle. Projecting signs may be erected and displayed on a zoning lot or over a public right-of-way in TC-1 and TC-2 Districts in compliance with the maximum area per display surface limitations contained in Subsection 5.14.9, provided:

- A. The building to which a projecting sign is attached shall be twenty (20) feet or more in width, except in TC-1 and TC-2 Districts where no minimum width shall apply.
- B. Projecting signs shall be limited to one sign per business establishment.
- C. No projecting sign shall be permitted on the same zoning lot street frontage along which there is a ground sign or cantilevered ground sign.
- D. Projecting signs shall clear sidewalks and pedestrian and bicycle paths by a height of at least eight (8) feet above finished grade and shall project no more than four (4) feet from the building to which they are attached.
- E. No projecting sign shall extend above the soffit, parapet, or eave line of the building to which it is attached.

- F. Projecting signs shall not be located at the intersection of building corners except at right angles to a building facade.
- G. Projecting signs shall be centered over or located near the principal doorway to the building.
- H. The message of projecting signs shall be limited to the name(s), trademark(s) and servicemark(s) of the establishment(s) located on the zoning lot and/or the name, trademark and servicemark of a multi-use development located thereon.

(4) Wall Signs

A wall sign is a sign attached to or painted on a wall or building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a façade window.

Wall signs may be erected and displayed on a zoning lot in compliance with the maximum percentage of façade coverage limitations contained in Subsection 5.14.9, provided:

- A. Wall signs placed in the space between windows located vertically one above the other shall not exceed in height two-thirds (2/3) of the height of the taller of the adjacent windows.
- B. Wall signs placed in the space between windows located horizontally beside each other shall not exceed in height two-thirds (2/3) of the height of the taller of the adjacent windows.
- C. No wall sign shall protrude more than twelve (12) inches from the wall to which it is attached.
- D. No wall sign shall extend above the parapet or eave line, as appropriate, of the building to which it is attached. If the building consists of more than two (2) stories, wall signs shall not extend above the second story.
- E. The display area of wall signs painted on, affixed to, or otherwise displayed on or through a façade window shall not exceed fifteen percent (15%) of the area of the window.
- F. Wall signs shall not cover up or interrupt major architectural features.
- G. The message of wall signs shall be limited to the name(s), trademark(s) and servicemark(s) of the establishment(s) located on the zoning lot and/or a multi-use development located thereon. Additionally, the message of wall signs may include information necessary to direct patrons to the business where the business may not have a direct entrance from the street or pedestrian and bicycle way.

(5) Marquees

Marquees may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations for wall signs contained in Section 5.14.9, provided a marquee shall not extend more than ten (10) feet from the building nor be less than nine (9) feet above the ground or sidewalk at the lowest point.

(6) Drop Awnings

Drop awnings may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations for wall signs contained in Subsection 5.14.9, provided:

- A. That when such drop awning is let down to its fullest extent, no metal bar or other solid or hollow framing shall be less than eight (8) feet above the ground or sidewalk; and
- B. That a flexible cloth, canvas or similar skirt may hang twelve (12) inches below the horizontal bar supporting the awning, but in no case shall the skirt be less than seven (7) feet above the ground or sidewalk at the lowest point.

5.14.9 Sign Area Limitations

Type of Sign	Zoning District	
	TC-1, TC-2	CC, NC, OI-1, OI-2, OI-3, OI-4, Ind
Ground Sign - Maximum Area per Display Surface	8.0 sq. feet	15.0 sq. feet
Projecting Sign - Maximum Area per Display Surface	8.0	8.0
Wall Sign - Maximum Percent of Façade Coverage	5.0%	5.0%

* The maximum area per display surface of any internally illuminated sign shall be one-half (1/2) the maximum area per display surface listed above.

5.14.10 Signs in PD-SC, PD-OI, PD-MU and PD-I Developments

No sign intended to be read from outside a Planned Development - Shopping Center, Planned Development-Office Institutional, Planned Development-Mixed Use or Planned Development-Industrial, or from public streets within the development, shall be permitted within such development except as allowed under Section 5.14.3 or as provided below:

- (a) Development identification signs containing the name and trademark of a planned development, provided such signs are limited to one ground sign at each principal point of access to the development, twenty (20) square feet in display area and a maximum height of six (6) feet;
- (b) Building identification signs containing only the name of a building or building complex and the nature of the establishments therein, provided such signs are limited to one wall sign per building with a display area not exceeding five percent (5%) of the area of the building facade to which it is attached, up to a maximum area of forty (40) square feet;
- (c) Identification signs for individual establishments containing the name(s) and trademark(s) of the establishments, provided such signs are limited to wall signs with a maximum display area of fifteen (15) square feet.

5.14.11 Signs in the Mixed Use OI-1 or Mixed Use R-1 Zoning Districts for Approved Developments Complying with the Mixed Use Thresholds

- (a) The owner(s) of the mixed use development shall establish a Unified Sign Plan.
- (b) No sign that can be read from outside a Mixed Use District development or from public streets within the development shall be permitted within such development except as allowed under Section 5.14.3 or as provided below:
 - (1) Development identification signs shall be limited to one (1) ground sign at each principal point of access to the development, forty (40) square feet in display area and a maximum height of eight (8) feet; or, two (2) signs mounted on brick or stone entry walls, twenty (20) square feet per display surface, and a maximum height of six (6) feet. In addition, the ground signs shall comply with the following requirements:
 - The development identification signs shall contain the name and trademark of the Mixed Use District development, and may also include the name and trademark for one (1) anchor tenant.
 - The letters and/or registered logo for the anchor tenant shall not exceed 50% of the size of the letters or logo for the name of the Mixed Use District development.

A single development identification sign at one principal point of vehicular access per perimeter roadway frontage of a development may be increased in size to eighty (80) square feet with a maximum height of eight (8) feet if the development contains a cinema. This development identification sign may include the name and trademark of the cinema and may include a changeable listing of movie titles in addition to the name and trademark of the Mixed Use District development. If internally illuminated, the sign shall have light letters on a dark background. The maximum size for such an internally illuminated sign shall be one-half (1/2) of eighty (80) square feet.

- (2) Building identification signs containing only the name of a building or building complex and the nature of the establishments therein, provided such signs are limited to one wall sign per building with a display area not exceeding five percent (5%) of the area of the building facade to which it is attached.
- (3) Identification signs for individual establishments containing the name(s) and trademark(s) of the establishments, provided such signs are limited to wall signs with a maximum display area limitation of five percent (5%) of facade coverage. Wall signs overall (combination of building identification and individual establishment identification) are limited to a maximum display area not to exceed five percent (5%) of the area of the building facade.

For a cinema, a marquee, as a permanent canopy projecting over an entrance to a building, may be erected and displayed with the following limitations:

- A. A marquee may identify the name and trademark of the cinema and may include a changeable listing of movie titles;
 - B. A marquee shall not extend more than ten (10) feet from the building nor be less than nine (9) feet above the ground or sidewalk at the lowest point;
 - C. The maximum display surface for the marquee shall be one hundred (100) square feet; and
 - D. The marquee shall front on interior drives and streets, not on streets external to the development.
- (4) Seasonal non-illuminated parking lot identification banners that will be hung from private street lights, and will not be displayed for more than ninety (90) days, are permitted with the approval of the Town Manager and the Community Design Commission. Each parking lot identification banner shall not exceed four (4) square feet in display area, and shall be limited to the name and/or trademark of the Mixed Use District development. One (1) or two (2) banners may be approved for display from each street light. The color(s), shape, materials, appearance and duration of display for such banners shall be approved by the Town Manager and the Community Design Commission prior to display.

If signs in a Mixed Use District are proposed to be internally illuminated, such signs shall have light letters on a dark background. The maximum size for such internally illuminated signs shall be one-half (1/2) the maximum area per display surface listed above.

5.14.12 Service Stations

- (a) Service stations may transfer the following types of signs, subject to the standards in subsections (b) and (c), below:
 - (1) Signs located adjacent to the top of the gas pumps (hereinafter referred to as “pump toppers”).
 - (2) Signs located on the exterior of canopies that cover gas pumps (hereinafter referred to as “service station canopy signs”).
- (b) Pump Toppers shall comply with the following standards:
 - (1) Gas stations may install one or two pump toppers on a site. Additional pump toppers may be permitted by transferring wall signage display area for each such additional sign.
 - (2) No internal illumination is permitted.
 - (3) Pump Toppers shall be limited to a maximum of eight (8) square feet per display surface. The message of such signage above pumps shall be limited to the name and registered trademark of the gasoline establishment located on the zoning lot.
 - (4) The base of the pump shall be a neutral color, and shall not contain any signage.
- (c) Service Station Canopy Signs shall comply with the following standards:
 - (1) Such signs shall be an integral component of the pump canopy. Such signs are considered “integral” to the pump canopy where they are composed of lettering mounted, painted or otherwise affixed to the pump canopy, and not located on the top or bottom of the canopy.
 - (2) The features, materials, colors and designs used in the pump canopy shall be similar to the principle structure. Such features are considered “similar” where:
 - A. The canopy is constructed of the same materials as the predominant materials on the exterior of the principal structure; and
 - B. The exterior area of the canopy visible from the public right-of-way is predominantly the same colors as the predominant color of the principal structure.

- (3) The maximum letter height and/or trademark height shall not exceed eighteen (18) inches.
- (4) The canopy shall not encroach upon any publicly dedicated rights-of-way.
- (5) Canopy signage may be permitted by transferring wall signage display area for each such sign. If wall signage display area is so transferred, one sign is permitted on each side of a canopy, up to a maximum of three sides.
- (6) Each canopy sign may not exceed four (4) square feet of display area.
- (7) The message of canopy signs shall be limited to the name and/or registered trademark of the establishment located on the zoning lot.
- (8) No internal illumination is permitted.

5.15 Performance Standards During Construction

5.15.1 Applicability

The provisions of this Section apply to any Special Use Permit, subdivision plat, site plan review approval, or Zoning Compliance Permit.

5.15.2 Criteria

All development subject to Section 5.15.1, above, shall comply with the following standards during the construction process:

- (a) The applicant shall comply with the Noise Control Code for the Town of Chapel Hill (Chapter 11, Article III of the Town Code of Ordinances).
- (b) The applicant shall comply with the Stormwater Management standards, Section 5.4 of this Chapter.
- (c) The applicant shall comply with the Town's Erosion and Sedimentation Control standards, Section 5.3.1 of this Chapter and Article 5 of Chapter 5 of the Town Code of Ordinances.
- (d) All filling, grading, dredging and other development shall occur only on the property subject to the application unless otherwise required by the conditions of approval.
- (e) No construction or development shall occur that interferes with the use of a recorded easement.
- (f) Bicycle and pedestrian systems shall be maintained during construction activities.

5.15.3 Penalties for Violation

If the Town Manager determines that the applicant is in violation of any of the standards set forth in Section 5.15.2 above, the applicant shall be subject to Section 4.13 of this Chapter. The Town Manager may revoke the Zoning Compliance Permit, Site Plan Review, or Special Use Permit until the site subject to the application, or any contiguous property affected by a violation of this Section, is restored to its state prior to the violation. The applicant may appeal the decision of the Town Manager pursuant to Section 4.10 of this Chapter.

5.16 Adequate Public Schools Facilities

5.16.1 Intent and Scope

The purpose of this article is to ensure that, to the maximum extent practical, new residential development occurring in the Orange County portion of Chapel Hill's zoning/subdivision regulation jurisdiction will be approved only when it can reasonably be expected that adequate public school facilities will be available to accommodate such new development. This article shall apply in those portions of the Town of Chapel Hill and its zoning jurisdiction in Orange County.

5.16.2 Findings and Purposes

The Town Council does hereby find that:

- a) The portion of Orange County served by the Chapel Hill/Carrboro school system has for the past decade been experiencing rapid growth in population; and
- b) This rapid growth, and that which is anticipated, creates a demand for additional school facilities to accommodate the children who reside within new developments; and
- c) The responsibility for planning for and constructing new school facilities lies primarily with the Chapel Hill/Carrboro School Board, with funding provided by Orange County; and
- d) Chapel Hill, Carrboro, Orange County and the Chapel Hill/Carrboro School Board have recognized the need to work together to ensure that new growth within the School District occurs at a pace that allows Orange County and the School District to provide adequate school facilities to serve children within such new developments; and
- e) To implement the Memorandum of Understanding between Orange County, Chapel Hill, Carrboro, and the Chapel Hill/Carrboro School Board, the Chapel Hill Town Council desires to provide a mechanism to assure that, to the extent possible, new development will take place only when there are adequate public school facilities available, or planned, which will accommodate such new development.

5.16.3 Certificate of Adequacy of Public School Facilities

- (a) No application for approval of a subdivision Preliminary Plat Zoning Compliance Permit, Minor Subdivision Final Plat, Zoning Compliance Permit for Site Plan Review, Zoning Compliance Permit for Special Use Permit, or Zoning Compliance Permit for Special Use Permit Modification for a project containing a residential use may be approved unless on the date of such approval there exists a valid and current Certificate of Adequacy of Public School Facilities applicable to the project for which such approval is sought.
- (b) A Certificate of Adequacy of Public School Facilities shall not be required for a general use or conditional use rezoning or for approval of a master land use plan. However, if a rezoning or master plan is approved, a Certificate of Adequacy of Public School Facilities will be required before any residential development of the property is authorized pursuant to any of the approvals specified in subsection (a) of the section, and the rezoning of the property or approval of a master plan provides no indication as to whether the Certificate of Adequacy of Public School Facilities will be issued. The application for rezoning or master plan approval shall contain a statement to this effect.
- (c) A Certificate of Adequacy of Public School Facilities must be obtained from the School District. The School District will issue or deny a Certificate of Adequacy of Public School Facilities in accordance with the provisions of a Memorandum of Understanding between Chapel Hill, Carrboro, Orange County, and the Chapel Hill/Carrboro School District.
- (d) An applicant shall seek from the School District a Certificate of Adequacy of Public School Facilities for a proposed residential development before an application for approval of a Zoning Compliance Permit for a subdivision Preliminary Plat application, Minor Subdivision Final Plat, Zoning Compliance Permit for a Site Plan Review application, Zoning Compliance Permit for a Special Use Permit or Zoning Compliance Permit for a Special Use Permit Modification is submitted to the Town. The Certificate of Adequacy of Public School Facilities, if issued, shall expire as provided in Section 16.5.
- (e) A Certificate of Adequacy of Public School Facilities attaches to the land in the same way that development permission attaches to the land. A Certificate of Adequacy of Public School Facilities may be transferred along with other interests in the property with respect to which such Certificate of Adequacy of Public School Facilities is issued, but may not be severed or transferred separately.

5.16.4 Service Levels

As provided in the Memorandum of Understanding between Orange County, Chapel Hill, Carrboro, and the Chapel Hill/Carrboro School District, adequate service levels for public schools shall be deemed to exist with respect to a proposed new residential development if, given the number of school age children projected to reside in that development, and considering all the factors listed in the Memorandum of Understanding, the number of students projected to attend the elementary schools, the middle schools, and the high school[s] within the Chapel

Hill/Carrboro School District will not exceed the following percentages of the building capacities of each of the following three school levels:

elementary school level	105%
middle school level	107%
high school level	110%

For purposes of this article, the term “building capacity” means the capacity of permanent buildings, not mobile units or trailers, and shall be determined as provided in the Adequate Public School Facilities Memorandum of Understanding among the Towns of Chapel Hill and Carrboro, and Orange County and the Chapel Hill/Carrboro Board of Education.

These percentages are currently in the Memorandum of Understanding. These percentages may be adjusted by mutual agreement of parties to the Memorandum of Understanding by an amendment thereto.

5.16.5 Expirations of Certificates of Adequacy of Public School Facilities

- (a) A Certificate of Adequacy of Public School Facilities that has been obtained pursuant to Subsection 16.3(d) before an application for approval of a subdivision preliminary plat, minor subdivision final plat, site plan, special use permit or special use permit modification has been submitted shall expire unless the developer submits and the Town accepts as complete an application for approval of that subdivision preliminary plat, minor subdivision final plat, site plan, special use permit or special use permit modification within ninety (90) days of the date of the Certificate of Adequacy of Public School Facilities and receives the requested approval within two (2) years of the date of the Certificate of Adequacy of Public School Facilities.
- (b) A Certificate of Adequacy of Public School Facilities issued in connection with approval of a subdivision preliminary plat, minor subdivision final plat, site plan, special use permit or special use permit modification shall expire automatically upon the expiration or such plat, plan, or permit approval.

5.16.6 Exemption From Certification Requirement for Development with Negligible Student Generation Rates

A Certificate of Adequacy of Public School Facilities shall not be required under the following circumstances:

- (a) For residential development permanently restricted to dormitory-style housing for university students.
- (b) For a residential development permanently restricted by law and/or covenant to housing for the elderly and/or adult care living and/or adult special needs.

5.16.7 Applicability to Previously Approved Projects and Projects Pending Approval

- (a) Except as otherwise provided herein, the provisions of this article shall apply to applications for approval of subdivision preliminary plat, site plans, special use permit, and special use permit modification that are submitted for approval after the effective date of this article.
- (b) The provisions of this article shall apply to subdivision preliminary plats, site plans, special use permits and special use permit modifications that have expired.
- (c) The provisions of this article shall not apply to minor changes to subdivision preliminary plat, site plan, special use permit, or special use permit modification approvals issued prior to the effective date of this article so long as the approvals have not expired and the proposed minor changes do not increase the number of dwelling units authorized within the development by more than five (5%) percent or five (5) dwelling units, whichever is less.
- (d) The Town Council shall issue a special exception to the Certificate of Adequacy of Public School Facilities requirement to an applicant whose application for approval of a subdivision preliminary plat, minor subdivision final plat, site plan, special use permit or special use permit modification covering property within a planned development or master plan project that was approved prior to the effective date of this article, if the Town Council finds, after an evidentiary hearing, that the applicant has (1) applied to the School District for a Certificate of Adequacy of Public School Facilities and the application has been denied, (2) in good faith made substantial expenditures or incurred substantial binding obligations in reasonable reliance on the previously obtained preliminary plat approval, planned development or master plan approval, and (3) would be unreasonably prejudiced if development in accordance with the previously approved development or plan is delayed due to the provisions of this ordinance. In deciding whether these findings can be made, the Town Council shall consider the following, among other relevant factors:
 - (1) Whether the developer has installed streets, utilities, or other facilities or expended substantial sums in the planning and preparation for installation of such facilities which were designed to serve or to be paid for in part by the development of portions of the preliminary plat, planned development or master planned project that have not yet been approved for construction;
 - (2) Whether the developer has installed streets, utilities, or other facilities or expended substantial sums in the planning and preparation for installation of such facilities that directly benefit other properties outside the development in question or the general public;
 - (3) Whether the developer has donated land to the School District for the construction of school facilities or otherwise dedicated land or made improvements deemed to benefit the School District and its public school system;

- (4) Whether the developer has had development approval for a substantial amount of time and has in good faith worked to timely implement the plan in reasonable reliance on the previously obtained approval;
- (5) The duration of the delay that will occur until public school facilities are improved or exist to such an extent that a Certificate of Adequacy of Public School Facilities can be issued for the project, and the effect of such delay on the development and the developer.

The decision of the Town Council is subject to review by the Orange County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after a written copy of the decision of the Town Council is delivered to every aggrieved party who has filed a written request for such copy with the Clerk to the Town Council at the time of its hearing on the application for a special exception. The written copy of the decision of the Town Council may be delivered to the aggrieved party either by personal service or by certified mail, return receipt requested.

The Mayor of the Town or any member temporarily acting as Mayor may, in his or her official capacity, administer oaths to witnesses in any hearing before the Town Council concerning a special exception.

5.16.8 Appeal of School District Denial of a Certificate of Adequacy of Public School Facilities

The applicant for a Certificate of Adequacy of Public School Facilities which is denied by the School District may, within thirty (30) days of the date of the denial, appeal the denial to the Town Council of Chapel Hill. Any such appeal shall be heard by the Town Council at an evidentiary hearing before it. At this hearing the School District will present its reasons for the denial of the Certificate of Adequacy of Public School Facilities and the evidence it relied on in denying the Certificate of Adequacy of Public School Facilities. The applicant appealing the denial may present its reasons why the Certificate of Adequacy of Public School Facilities application should have, in its view, been approved and the evidentiary basis it contends supports approval. The Town Council may (1) affirm the decision of the School District, (2) remand to the School District for further proceedings in the event evidence is presented at the hearing before the Town Council not brought before the School District, or (3) issue a Certificate of Adequacy of Public School Facilities. The Town Council will only issue a Certificate of Adequacy of Public School Facilities if it finds that the Certificate of Adequacy of Public School Facilities should have been issued by the School District as prescribed in the Memorandum of Understanding among the School District, Orange County and Chapel Hill. A decision of the Town Council affirming the School District may be appealed by the applicant for a Certificate of Adequacy of Public School Facilities by proceedings in the nature of certiorari and as prescribed for an appeal under Section 16.7(d) of this article.

5.16.9 Information Required From Applicants

The applicant for a Certificate of Adequacy of Public School Facilities shall submit to the School District all information reasonably deemed necessary by the School District to determine whether a Certificate of Adequacy of Public School Facilities should be issued under the provisions of the Memorandum of Understanding between Chapel Hill, Orange County, and the School District. An applicant for a Certificate of Adequacy of Public School Facilities special exception or an applicant appealing a Certificate of Adequacy of Public School Facilities denial by the School District shall submit to the Town Council all information reasonably deemed necessary by the Town Manager to determine whether a special exception should be granted as provided in Section 16.7(d) of this article or for the hearing of an appeal of a School District denial of a Certificate of Adequacy of Public School Facilities as provided in Section 16.8 of this article. A copy of a request for a Certificate of Adequacy of Public School Facilities special exception or of an appeal of a School District denial of a Certificate of Adequacy of Public School Facilities shall be served on the superintendent of the School District. Service may be made by personal delivery or certified mail, return receipt requested.

ARTICLE 6. SPECIAL REGULATIONS FOR PARTICULAR USES

Some uses have special impacts, or special needs, that cannot be addressed by the normal use and dimensional restrictions of the zoning districts. Many of these uses have similar characteristics that can be identified in advance. This enables the Town to establish standards for all of these uses. This Section establishes those standards. These standards must be complied with for each type of use identified in this Section, regardless of their location.

6.1 Adult Day Care Facility or Child Day Care Facility

The zoning lot on which an Adult Day Care Facility or Child Day Care Facility is located shall have access onto an arterial or collector street in R-1 and R-2 zoning districts.

6.2 Cemetery

- (a) A minimum gross land area of one hundred thousand (100,000) square feet shall be provided.
- (b) The zoning lot shall front on an arterial or collector street and have direct access thereto.
- (c) Adequate space for the parking and maneuvering of funeral entourages shall be provided within the site.
- (d) No interment shall be permitted within twenty (20) feet of any lot line.

6.3 Fraternity or Sorority House

A minimum of two hundred fifty (250) square feet of floor area shall be provided for each resident.

6.4 Fine Arts Educational Institutions

Fine Arts Educational Institutions shall be allowed as a Special Use in the R-5 and R-6 zoning districts only if:

- (a) The zoning lot on which such use is located fronts on either an arterial or collector street.
- (b) Special consideration is given to the design of driveway areas to adequately permit on-site drop-off and pick-up of students.

6.5 Group Care Facility

The zoning lot on which a group care facility is proposed shall not be located within five hundred (500) feet of a zoning lot containing another existing or approved group care facility.

6.6 Extraction of Earth Products

- (a) An Operations Plan and a Rehabilitation Plan, containing information as required by the Town Manager, shall be submitted as part of the application for a Special Use Permit.
- (b) All operations associated with the extraction shall conform to the following performance standards:
 - (1) Direct illumination resulting from the operation shall not fall upon any land not covered by the application;
 - (2) Equivalent sound levels at the boundaries of the extraction site shall not exceed the noise standards contained in Chapter 11, Article 3 of the Town Code of Ordinances; and
- (c) The permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dust-free material, such as soil cement, bituminous concrete, or Portland Cement concrete.
- (d) Roads other than permanent roads shall be treated with dust inhibitors which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action.
- (e) Where the proposed extraction shall take place within three hundred (300) feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least six (6) feet high shall be installed.
- (f) Spoil piles and other accumulations of by-products shall not be created to a height more than thirty-five (35) feet above the original contour and shall be so graded that the vertical slope shall not exceed the material's natural angle of repose.
- (g) The Operations Plan and the Rehabilitation Plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with extraction.

6.7 Landfill

- (a) An Operations Plan and a Rehabilitation Plan, containing information as required by the Town Manager, shall be submitted as part of the application for a Special Use Permit.
- (b) All operations associated with the landfill shall conform to the following performance standards:
 - (1) Direct illumination resulting from the operation shall not fall upon any land not covered by the application;

- (2) Equivalent sound levels at the boundaries of the landfill site shall not exceed the noise standard contained in Chapter 11, Article 3 of the Town Code of Ordinances; and
- (c) The permanent roads, defined as those to be used in excess of one year, within the landfill site shall be surfaced with a dust free material, such as soil cement, bituminous concrete or Portland Cement concrete.
- (d) Roads other than permanent roads shall be treated with dust inhibitors which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action.
- (e) Where the proposed fill shall take place within three hundred (300) feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least six (6) feet high shall be installed.
- (f) The Operations Plan and the Rehabilitation Plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with fill.

6.8 Park/Ride Terminal

The proposed facility shall be accessible by public bus transportation and bus passenger shelters shall be provided.

6.9 Place of Assembly - Over 2,000 Seating Capacity

Equivalent sound levels at the boundaries of the zoning lot shall not exceed the noise standards contained in Chapter 11, Article 3 of the Town Code of Ordinances.

6.10 Public Service Facility

Adequate security of the site, by means of fencing or otherwise, shall be provided.

6.11 Radio, Television or Wireless Transmitting and/or Receiving Facility

- (a) The zoning lot on which a radio or television transmitting and/or receiving facility is located shall have a minimum gross land area of one hundred fifty thousand (150,000) square feet.
- (b) Adequate security of the site, by means of fencing or otherwise, shall be provided.

6.12 Service Station/Convenience Store

- (a) The zoning lot on which a service station/convenience store is located shall have a minimum gross land area of twenty thousand (20,000) square feet. If rental of trucks, trailers, etc. is proposed as an accessory use, the minimum gross land area required shall be increased by ten thousand (10,000) square feet.
- (b) The zoning lot shall front on an arterial or collector street and have direct access thereto.
- (c) Adequate provision shall be made for ventilation and the dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids.
- (d) Driveways for a service station/convenience store shall not be located within three hundred (300) feet of any intersecting street or within seven hundred fifty (750) feet of driveways intersecting the same street and serving another existing or approved service station. These distances shall be measured centerline to centerline.

6.13 Temporary Portable Building, Other Than Related to Construction

- (a) Residential use of temporary buildings shall be prohibited.
- (b) Temporary buildings shall not be used as part of a drive-in business.
- (c) Temporary buildings shall be removed within a time period designated on approval, such time period not to exceed three (3) years.

6.14 Drive-In Window, as Accessory Use to Permitted Principal Use

Pedestrian walkups shall be separated from service areas by curbs.

6.15 Car Wash

- (a) That no outdoor lighting, other than ground level lighting otherwise permitted by the Land Use Management Ordinance, be allowed to be used after 10:00 p.m. Sunday through Thursday, and after 11:00 p.m. Friday and Saturday. A lighting plan shall be approved by the Community Design Commission.
- (b) That the application for the Special Use Permit shall include a plan for staffing of the facility in a manner that will assure that the facility shall be well-maintained, with provisions for the regular collection of litter and debris during each day of operation, for regular care of the landscaping, for adequate protection of the equipment and structures from vandalism and for the protection of the safety of the customers.

- (c) That the zoning lot on which a car wash is located shall have a minimum gross land area of twenty thousand (20,000) square feet.
- (d) That the zoning lot shall front on an arterial or collector street and have direct access thereto.
- (e) That driveways for a car wash shall not be located so as to impede the safe operation of any intersection.
- (f) That all car washing apparatus shall be enclosed or screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Screening may be accomplished through arrangement of structures on the lot combined with appropriate screening devices which may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the necessary height within two (2) years of planting, or combination of the above.
- (g) That all proposals for car wash facilities shall demonstrate the provision of adequate drainage systems.
- (h) That no car wash shall be permitted in a Water Quality Critical Area (WQCA) District as established in Article 9 of the Ordinance.

6.16 Outdoor Skateboard Ramps

Outdoor skateboard ramps shall be permitted as an Accessory Use ("A") in the R-6, R-5, R-4, R-3, R-2, R-2A, R-1, R-1A, R-LD1, and R-LD5 zoning districts only if the minimum gross land area for the zoning lot is at least five (5) acres.

Outdoor skateboard ramps shall permitted only if:

- (a) The outdoor skateboard ramp structure, or any part thereof, is located at least 100 feet from any property boundary where the property's use or zoning is residential and 30 feet from any non-residential property boundary. This setback is to be measured perpendicular to the lot line or street right-of-way; and
- (b) The outdoor skateboard ramp structure is adequately screened such that it is not visible from all adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the necessary height within two (2) years of planting, or combination of the above.

6.17 Uses Requiring Special Frontage

Each of the principal uses identified below shall be permitted in RT, R-LD5, R-LD1, R-1A, R-1, R-2A, and R-2 zoning districts only if the zoning lot on which such use is located meets the specific requirements identified herewithin. The zoning lot on which the following principal uses are located shall front on either an arterial or collector street for a width equal to or exceeding the minimum lot width established in Table 3.8-1, for that particular zoning district:

- a) Place of Worship
- b) School, Elementary or Second
- c) Public Cultural Facility

6.18 Planned Developments

6.18.1 Establishment of Planned Developments

Planned developments may be established in any zoning district in accordance with the procedures and general requirements set forth in Sections 4.5.1-4.5.6 and with the requirements contained in this Section.

(a) General

Planned developments shall be appropriately located with respect to intended functions, to the pattern and timing of development indicated in the Comprehensive Plan, and to public and private facilities existing or clearly to be available by the time the development reaches the stage where they will be needed.

(b) Relation to Major Transportation Facilities

Planned developments shall be so located with respect to major street, bicycle, and pedestrian networks, or public transportation facilities, and shall be so designed, as to provide direct access to the development without creating traffic in residential neighborhoods outside the development.

(c) Relation to Public Utilities, Facilities, and Services

- (1) Planned developments shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems, and other utilities and installations that neither extension nor enlargement of such systems will be required in manner, form, character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would development generally permitted under existing zoning and development policies.
- (2) Such developments shall be so located with respect to necessary public facilities (as for example, schools, parks, and playgrounds in the case of Planned Development-Housing) as to have access to such facilities in the same degree as

would development permitted under general regulation, and shall be located, designed, and scaled so that access for public services is equivalent to, and net cost for such services is not greater than, access and net costs for public services for development permitted under general development controls.

- (3) However, planned developments failing to meet these criteria may be approved if applicants (a) provide private facilities, utilities, and services approved by appropriate public agencies as substituting on an equivalent basis, and assure their satisfactory continuing operation, permanently or until similar public utilities, facilities, or services are available and used; or (b) make provision acceptable to the Town for offsetting any added net public cost of early commitment of public funds made necessary by such development.
- (4) In determining net public costs, the difference in anticipated public installation, operation, and maintenance costs and the difference in anticipated public revenue shall be considered. Expenses involved in making such determinations shall be paid by the applicant. Determinations shall be made by the Town or by experts acceptable to the Town.

(d) *Relation to Physical Character of the Site*

- (1) The site of a planned development shall be suitable for development in the manner proposed without hazards to persons or property, on or off the tract, and shall be free from the probability of flooding, excessive erosion, subsidence or slipping of the soil, or other dangers. Condition of soil, ground water level, drainage, and topography shall all be appropriate to both the kind and pattern of use intended.
- (2) If appropriate to the form of planned development, lands to be included in planned developments may be divided by streets, alleys, rights-of-way, or easements, which shall be located, dimensioned, and arranged so as to permit unified planning and provide necessary protection against adverse relationships between uses in the development and uses in surrounding areas.

(e) *Relation to Energy Use*

Planned developments shall be so located with respect to climatic elements, including solar access, and shall be so designed, as to provide for and promote energy conservation and efficient use of energy. Applicants are encouraged to consider the use of solar roofs, state energy guidelines, and the measures prescribed in Section 5-125 of the Town Code of Ordinances.

(f) *Reduction or Increase in Required Land Areas*

The minimum and maximum land areas required for zoning lots containing the various classification of planned development as specified in this Section, may be reduced or increased by the Town Council in accord with the following provisions:

- (1) Reductions in the minimum land area required may be approved upon findings in the particular case that special circumstances required such reduction, that other requirements can be met in such reduced area, and that such reduction shall not exceed ten percent (10%) of the area generally required.
- (2) Increases in the maximum land area allowed may be approved upon findings in the particular case that the proposed plan of development or the character of the property involved require such increase to meet the requirements and intent of this Article or to provide necessary special protection.
- (3) In reaching decisions on requests for reduction or increase in required land areas, the Town Council shall be guided by the provisions of the Comprehensive Plan and the protection of the public health, safety, and general welfare of present and future occupants of the proposed planned development and the surrounding area.

6.18.2 Permitted Modifications of Regulations

Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable planned development regulations, general regulations, or other regulations in this Chapter, but the Town Council makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Town Council may make specific modification of the regulations in the particular case. Any modifications of regulations shall be explicitly indicated in the Special Use Permit or Modification of the Special Use Permit.

6.18.3 Relation to Subdivision Review

It is the intent of this Section that applicable subdivision review under the subdivision regulations be carried out as an integral part of the review of a planned development. It is the further intent of this Section to permit the submittal of subdivision applications for the whole planned development or for approved phases thereof. The form and content of applications and plans submitted for such integrated review shall be sufficient to satisfy requirements of the subdivision regulations as well as those of this Article.

6.18.4 Planned Development-Housing (PD-H)

The following regulations and requirements apply to a Planned Development-Housing (PD-H), defined for purposes of these regulations as a planned development primarily for dwellings and related uses and facilities.

(a) Intent

With respect to timing of development of particular PD-H, it is intended that in addition to other policies and limitations set forth in this Chapter, consideration shall be given to general housing needs in the Town as a whole and in the sub-community in which development is proposed, and the need for particular types of housing. In such consideration, due weight shall be given to availability of existing supply of housing types for which there is evident need in view of the age characteristics and economic characteristics of the population, and to the amount and types of potential housing being developed under issued Special Use Permits and building permits.

(b) Minimum Land Area

Except as provided for Section 6.18.1(f), the minimum gross land area required for a zoning lot containing a PD-H shall be five (5) acres in residential districts, one (1) acre in non-residential districts.

(c) Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-H shall be as established in Section 3.3 of this Chapter.

(d) Intensity Regulations

Except as otherwise provided in this Chapter, the intensity regulations applicable within a PD-H shall be as established in Section 3.8 for the zoning district in which such PD-H is located.

The setbacks of the underlying zoning district apply only to the perimeter of the Planned Development.

(e) Design Standards

Except as otherwise provided in this Chapter, the design standards applicable within a PD-H shall be as established in Article 5, with the following additions;

- (1) Where a PD-H zoning lot adjoins land that is zoned residential and developed with lots of a size which limits their use to single-family detached residences, an appropriate transition between the PD-H and the adjoining single family lots shall be provided. An appropriate transition shall consist of at least bufferyards and screening as required in Section 5.6. In a PD-H with a gross land area of twenty-five acres or more, only those land uses permitted by right in the zoning district of the PD-H zoning lot shall be permitted within one hundred (100) feet from the adjoining single-family dwelling lots.
- (2) Vehicular access to streets shall be limited and controlled as follows:
 - A. if the street or portion thereof serves fifty (50) or fewer dwelling units, vehicular access from off-street parking and service areas may be directly to the street from the sites of individual dwelling units. Determination of number of dwelling units served shall be based on normal routes of traffic anticipated in the development; and

- B. vehicular access to other streets or portions of streets from off-street parking and service areas shall be so combined, limited, located, designed, and controlled as to channel traffic from and to such areas conveniently, safely, and in a manner which minimizes marginal traffic friction and promotes free flow of traffic on streets without excessive interruption.

6.18.5 Planned Development-Shopping Center (PD-SC)

The following regulations and requirements apply to a Planned Development-Shopping Center (PD-SC), defined for purposes of these regulations as a planned development for neighborhood, PD-SC(N), or community, PD-SC(C) commercial activity centers.

(a) Intent

- (1) It is the intent of these regulations to provide for development of such commercial centers in scale with surrounding market areas, at locations in conformance with the Comprehensive Plan and Thoroughfare Plan, and in proximity to public transportation facilities, in accord with standards set forth herein, and to serve areas not already conveniently and adequately provided with commercial and service facilities of the kind proposed.
- (3) It is further the intent to permit the establishment of such planned developments only where planned centers with carefully related buildings, parking and service areas, and landscaped open space will serve clearly demonstrated public need, reduce marginal traffic friction below that which would result from strip commercial development, and protect property values in surrounding neighborhoods. It is further intended that a PD-SC shall provide a broad range of facilities and services appropriate to the general need of the area served to these ends:
 - A. PD-SC(N): A Planned Development-Shopping Center (Neighborhood) is intended to be built around a supermarket as the major use, and to provide for the sale of convenience goods, for provision of personal services, and for other frequent needs of a trade area with a population of two thousand (2,000) to ten thousand (10,000), within approximately five (5) to ten (10) minutes driving time; and
 - B. PD-SC(C): A Planned Development-Shopping Center (Community) is intended to be built around a department store or substantial variety store as the major tenant, in addition to a supermarket. Such centers normally serve a trade area population of ten thousand (10,000) to twenty-five thousand (25,000), within fifteen (15) to twenty (20) minute driving time.

(b) Minimum Land Area

Except as provided for Section 6.18.1(f), the minimum gross land area required for a zoning lot containing a PD-SC shall be five (5) acres. The maximum gross land area permitted for a zoning lot containing a PD-SC(N) shall be fifteen (15) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-SC(C).

(c) **Permitted Uses**

Permitted principal and accessory uses of land or structures within a PD-SC(N) or PD-SC(C) shall be established in Section 3.7 of this Chapter, provided that a PD-SC(C) contains a sufficient range of establishments to provide for the general needs of the trade area proposed to be served.

(d) **Intensity Regulations**

- (1) Except as otherwise provided in this Chapter, the intensity regulations applicable within a PD-SC shall be as established in Section 3.8 for the zoning district in which such PD-SC is located.
- (2) The setbacks of the underlying zoning district apply only to the perimeter of the planned development.

(e) **Design Standards**

Except as otherwise provided in this Chapter, the design standards applicable within a PD-SC shall be as established in Article 5 with the following additions:

- (1) No PD-SC shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors; and
- (2) Where a PD-SC adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, nonresidential uses and signs shall be located or oriented away from the residential neighborhood.

6.18.6 Planned Development-Office and Institutional (PD-OI)

The following regulations and requirements apply to a Planned Development-Office and Institutional (PD-OI), defined for purposes of these regulations as a planned development for complementary groupings of office and institutional uses.

(a) **Intent**

It is the intent of these regulations to provide for development of such office and institutional centers at locations in conformance with the Comprehensive Plan and the Thoroughfare Plan, and in proximity to public transportation facilities, in accord with standards set forth herein.

It is further intended that PD-OI development shall be scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing employment close to principal places of residence, convenient pedestrian and bicycle circulation systems, and public transportation facilities.

Within such developments, it is intended that uses shall be arranged horizontally or vertically so that:

- (1) Major vehicular flows and other disquieting influences are so separated from residential areas as to protect privacy and tranquility; and
- (2) General service uses are concentrated for maximum pedestrian and bicycle convenience and located for easy accessibility by workers and visitors arriving by public transportation; and
- (3) Major office and institutional uses are so located as to be convenient to public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangements of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potential adverse effects.

(b) Land Area Requirements

Except as provided for Section 6.18.1(f), the minimum gross land area required for a zoning lot containing a PD-OI shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-OI.

(c) Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-OI shall be as established in Section 3.7 of this Chapter.

(d) Intensity Regulations

- (1) Except as otherwise provided in this Chapter, the intensity regulations applicable within a PD-OI shall be as established in Section 3.8 for the zoning district in which such PD-OI is located.
- (2) The setbacks of the underlying zoning district apply only to the perimeter of the Planned Development.

(e) Design Standards

Except as otherwise provided in this Chapter, the design standards applicable within a PD-OI shall be as established in Article 5, with the following additions:

- (1) No PD-OI shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors; and

- (2) Where a PD-OI adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, nonresidential uses and signs shall be located or oriented away from the residential neighborhood.

6.18.7 Planned Development-Mixed Use (PD-MU)

The following regulations and requirements apply to a Planned Development-Mixed Use (PD-MU), defined for purposes of these regulations as a planned development for complementary groupings of residential, commercial, and office uses.

(a) Intent

It is the intent of these regulations to provide for development of such mixed uses at locations appropriate in terms of the Comprehensive Plan and the Thoroughfare Plan, and in proximity to public transportation facilities, in accord with standards set forth herein.

It is further intended that PD-MU development shall be in complexes within which mutually supporting residential, commercial, and office uses are scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing housing close to principal destinations, convenient pedestrian circulation systems, and public transportation devices.

Within such developments, it is intended that uses shall be arranged horizontally or vertically so that:

- (1) Residential uses are so separated from major vehicular traffic flows and other disquieting influences as to protect privacy and tranquility;
- (2) General commercial and service uses are concentrated for maximum pedestrian and bicycle convenience, and located for easy accessibility by residents of the development, workers within the development, and visitors arriving public transportation, and that commercial frontage is uninterrupted by residential or office uses; and
- (3) Major office uses are so located as to be convenient to public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potential adverse effects.

(b) Land Area Requirements

Except as provided for Section 6.18.1(f), the minimum gross land area required for a zoning lot containing a PD-MU shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-MU.

(c) Permitted and Required Uses

Permitted principal and accessory uses of land or structures within a PD-MU shall be as established in Section 3.7 of this Chapter. Residential use of at least 25 percent of the floor area shall be required.

(d) Intensity Regulations

- (1) Except as otherwise provided in this Chapter, the intensity regulations applicable within a PD-MU shall be as established in Section 3.8 for the zoning district in which such PD-MU is located.
- (2) The setbacks of the underlying zoning district apply only to the perimeter of the Planned Development.

(e) Design Standards

Except as otherwise provided in this Chapter, the design standards applicable within a PD-MU shall be established in Article 5, with the following additions:

- (1) No PD-MU shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors;
- (2) Where a PD-MU adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, residential uses within the PD-MU district shall be located adjacent to the residential neighborhood, and nonresidential uses and signs shall be located or oriented away from the residential neighborhood; and
- (3) Relationship of uses shall be such that major commercial and service establishments are grouped for maximum pedestrian and bicycle convenience along frontages uninterrupted by residential or general office occupancies. Residential or general office uses may either be in separate areas within the development, or may be separated vertically from commercial and service concourses.

6.18.8 Planned Development-Industrial (PD-I)

The following regulations and requirements apply to a Planned Development-Industrial (PD-I), defined for purposes of these regulations as a planned development for complementary groupings of industrial uses.

(a) Intent

It is the intent of these regulations to provide development of such industrial centers at locations in conformance with the Comprehensive Plan and the Thoroughfare Plan, and in proximity to public transportation facilities, in accord with standards set forth herein.

It is further intended that PD-I development shall be scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing employment close to principal places of residence, convenient pedestrian and bicycle circulation systems, and public transportation facilities.

Within such development, it is intended that uses shall be arranged horizontally or vertically so that:

- (1) Major vehicular flows and other disquieting influences are so separated from residential areas to protect privacy and tranquility; and
- (2) General industrial uses are concentrated for maximum pedestrian and bicycle convenience and located for easy accessibility by workers arriving by public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potentially adverse effects.

(b) Land Area Requirements

Except as provided for Section 6.18.1(f), the minimum gross land area required for a zoning lot containing a PD-I shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-I.

(c) Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-I shall be as established in Section 3.7 of this Chapter.

(d) Intensity Regulations

Except as otherwise provided in this Chapter, the intensity regulations applicable with a PD-I shall be as established in Section 3.8 for the zoning district in which such PD-I is located.

The minimum street setback required for any structure, or part thereof, shall be fifty (50) feet. The minimum interior setback required for any structure, or part thereof, shall be twenty-five (25) feet.

(e) Design Standards

Except as otherwise provided in this Chapter, the design standards applicable within a PD-I shall be established in Article 5, with the following additions:

- (1) No PD-I shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of workers within the development;

- (2) Where a PD-I adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, nonresidential uses and signs shall be located or oriented away from the residential neighborhood.

6.19 Dwelling Units -- Duplex

The following standards shall apply to development of duplexes:

- (a) The maximum floor area of the structure may not exceed 3,000 square feet.
- (b) The maximum floor area ratio applicable shall be .40.
- (c) The maximum number of bedrooms per structure shall be 6.
- (d) The Community Design Commission shall approve duplex building elevations and site plans to determine if the elevations/site plans are in accordance with the adopted design guidelines.
- (e) No more than four (4) vehicular parking spaces, as defined by landscaping and hardscape materials, shall be permitted.
- (f) For Special Use Permit, Special Use Permit Modification, Site Plan Review, and Site Plan Review Applications which authorize construction of Dwelling Units, Two-Family – Duplex Use, the Community Design Commission shall approve duplex building elevations and site plans to determine if the elevations are in accordance with the adopted design guidelines.
- (g) That every application for Community Design Commission review of a duplex elevation/site plan shall include a list of owners of properties located within 100 feet of the subject property boundaries with the full name and address of each property owner, with stamped, pre-addressed mailing envelopes for each owner on the mailing list. The stamped, pre-addressed envelopes shall be used to notify the property owners of the meeting date and time during which the Community Design Commission will consider the application.

Every application for Community Design Commission review of duplex structure(s) that are approved by a Special Use Permit, Site Plan Review, or said modifications, shall include a list of owners of properties located within 1,000 feet of the subject property boundaries with the full name and address of each property owner, with stamped, pre-addressed mailing envelopes for each owner on the mailing list. The stamped, pre-addressed envelopes shall be used to notify the property owners of the meeting date and time during which the Community Design Commission will consider the application.

ARTICLE 7. NONCONFORMITIES

7.1 Intent

It is the intent of this Article to minimize the impact of changed regulations on development that existed (or for which a vested right had been established) as of the effective date of the changed regulations.

7.2 Nonconforming Lots

7.2.1 Definition

A nonconforming lot is a lot that was lawfully created prior to the effective date of this Chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Section 3.8 for the zoning district in which it is located.

7.2.2 Required Combination or Recombination of Nonconforming Lots

Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this Chapter, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of this Chapter.

Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.

7.2.3 Use of Nonconforming Lots

Where a nonconforming lot cannot be combined or recombined with other lots to form a conforming lot or lots, such nonconforming lot may be used subject to the compliance of the intended use and structure(s) with applicable use regulations and with applicable LUI ratios and setback and height regulations. However, any use (e.g. two-family or multi-family dwelling) that requires a greater gross land area than the minimum gross land area listed in Section 3.8 for the appropriate zoning district shall not be permitted on a lot which does not conform to such minimum gross land area requirement.

If compliance of the structure(s) intended on the nonconforming lot with applicable setback regulations is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of variance from such setback regulations by the Board of Adjustment in accord with the provisions of Section 4.12 of this Chapter.

7.3 Nonconforming Uses

7.3.1 Definition

A nonconforming use is a use of land, buildings, or structures that was lawfully established (or for which a vested right had been established) on a property prior to the effective date of current use regulations, but does not conform to the Use Regulations of Article 3 for the zoning district in which it is located.

7.3.2 Regulations

Two-family duplex dwelling units existing or for which a vested right had been established as of October 21, 2002, may be continued as a use without limitation and shall not be considered as a nonconforming use as defined herein. Nonconforming uses, other than two-family duplex dwelling units, may be continued subject to the following limitations:

- (a) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings, or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.
- (b) No building or structure devoted to a nonconforming use shall be enlarged, extended, or moved unless such building or structure is thereafter devoted to a conforming use.
- (c) If a nonconforming use ceases for more than ninety (90) consecutive days or a total of one hundred and eighty (180) days in any twelve (12) month period, subsequent use of the land, or structures previously devoted to such use shall thereafter be devoted to conforming uses.

7.4 Nonconforming Features

7.4.1 Definition

A nonconforming feature is a physical feature or characteristic of a use, building, structure or other development of land that was lawfully established (or for which a vested right had been established) prior to the effective date of this Chapter or a subsequent amendment thereto, but does not conform to the Intensity Regulations of Article 3 or the Design Standards of Article 5 applicable to such use, building, structure, or development of land. Nonconforming features include, but are not limited to, physical features and characteristics of development that exceed allowable maximum standards (floor area, height), and those that lack or fall short of required minimum standards (impervious surface, recreation space, setback, building spacing, access and circulation arrangement and design, sight line triangle, off-street parking and loading spaces and design, water supply and sewage disposal arrangement and design, utility design, refuse storage and collection facilities and design, buffer width and landscaping design, screening height and design, landscaping maintenance, outdoor lighting design).

7.4.2 Regulations

Nonconforming features may be continued subject to the following limitations:

- (a) No action shall be taken which increases the degree or extent of the nonconforming feature. Any enlargement, extension or structural alteration shall conform to all current requirements of this Article.
- (b) For development existing (or for which a vested right had been established) prior to the effective date of current regulations, nonconforming features created by a change in regulations may continue to exist, and structures with such nonconforming features may be reconstructed if demolished or destroyed.

7.4.3 Discontinuance

Any sign having a nonconforming feature shall be either eliminated or made to conform with the provisions of this Chapter when any substantial alteration to the sign is proposed.

7.5 Nonconforming Signs

7.5.1 Definition

A nonconforming sign is a sign that was lawfully established prior to the effective date of this Chapter or a subsequent amendment thereto, but does not conform to the Design Standards of Article 5 applicable to such sign.

7.5.2 Regulations

Nonconforming signs may be continued subject to the following limitations:

- (a) No nonconforming sign, including its permanent message or its structure, shall be extended, enlarged, moved, or otherwise altered unless such sign is made to conform to the current regulations of this Chapter.
- (b) When a nonconforming sign is demolished or damaged to the extent where more than fifty percent (50%) of its display area requires replacement, such sign shall be eliminated or made to conform to the current regulations of this Chapter.
- (c) When the repair, maintenance, or replacement cost of a nonconforming sign exceeds five hundred dollars (\$500), such sign shall be eliminated or made to conform to the current regulations of this Chapter.

7.5.3 Amortization of Nonconforming Signs

Any nonconforming sign shall be either eliminated or made to conform to current regulations of this Chapter in accord with the following schedule:

- (a) Any nonconforming sign that does not conform to the requirements of Section 5.14.4, Traffic Safety Precautions, shall be either eliminated or made to conform to the current regulations of this Chapter within ninety (90) days after the date of the notice of nonconformity.
- (b) Any nonconforming sign that is exempt from regulation under Section 5.14.3, but that does not conform to the temporary sign limitations in Section 5.14.3(f) - (k), shall be either eliminated or made to conform to the current regulations of this Chapter within ninety (90) days after the date of the notice of nonconformity.
- (c) Any nonconforming sign other than those to which a. or b. above applies shall be either eliminated or made to conform to the current regulations of this Chapter within three (3) years after the date of the notice of nonconformity.

7.6 Nonconforming Parking Areas in Front Yards

Any nonconforming parking area in a front yard shall either be eliminated or made to conform to current regulations of this Chapter within six (6) months after the date of notice of nonconformity.

7.7 Development in Watershed Protection District

- (a) This provision of the Watershed Protection District shall not apply to the continued use, operation or maintenance of any development existing, or for which construction had substantially begun, or for which preliminary plat approval, site plan approval, or special use permit approval has been received on or before the effective date of the applicable district. With respect to the requirements of this Article, such development shall not be considered as non-conforming within the meaning of Article 7.
- (b) This provision of the Watershed Protection District shall not apply to single family or two-family development constructed or to be constructed on existing lots created prior to July 1, 1993.
- (c) This Watershed Protection District shall not apply to the continued use, operation or maintenance of any development existing, or for which construction had substantially begun, on or before July 1, 1993. In addition, the Watershed Protection District shall not apply to existing development which has established a vested right under North Carolina zoning law as of July 1, 1993, based on the following criteria:
 - (1) substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid approval to proceed with the project;
 - (2) having an outstanding valid building permit; or
 - (3) having expended substantial resources (time, labor, money) and having an approved Site Specific Development Plan pursuant to this Ordinance.

- (d) Multiple lots under single ownership as of July 1, 1993, are not subject to the provisions of the Watershed Protection District if vested rights have been established in accordance with North Carolina law. If no vested rights are established, then owners must comply with the provisions of this Chapter. Compliance may include requiring the recombination of lots.

- (e) The Watershed Protection District shall not apply to single family and two-family development constructed or to be constructed on existing single-family lots created prior to July 1, 1993. This exemption is not applicable to multiple lots under single ownership. For purposes of constructing a single-family or two-family dwelling, lots of record as of July 1, 1993, which are established through a duly approved and properly recorded final plat shall be exempt from the provisions of this Chapter.

ARTICLE 8. ADMINISTRATIVE MECHANISMS

This Article formally establishes the agencies and officials involved in processing applications for development approval.

8.1 Town Council

In considering proposed amendments to the text of this Chapter or to the Zoning Atlas, the Town Council acts in its legislative capacity and shall observe the procedural requirements set forth in Article 4, Sections 4.2 and 4.4 of this Chapter.

In considering Special Use Permit applications, the Council acts in a quasi-judicial capacity and, accordingly, shall observe the procedural requirements set forth in Section 4.5 of this Chapter.

Unless otherwise specifically provided in this Chapter, the Council, in acting upon Special Use Permit and site plan review applications or in considering amendments to this Chapter or the Zoning Atlas, shall observe the quorum, voting, and other requirements set forth in the Town Code of Ordinances.

8.2 Planning Board

8.2.1 Establishment of the Board; Qualifications

A Planning Board, consisting of ten (10) members, is hereby established. Seven (7) members, appointed by the Council, shall reside within the corporate limits of Chapel Hill. Two (2) members shall reside within the Town's extraterritorial planning jurisdiction, and shall be appointed by the Orange County Board of Commissioners. One (1) member shall reside within the Town's Joint Planning Transition Area, and shall be appointed by the Orange County Board of Commissioners. Members shall serve without compensation, but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the Board.

8.2.2 Tenure

Members of the Board shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

8.2.3 Officers

The Board shall elect one member to serve as Chair and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chair and other offices shall be one year, with eligibility for reelection to a second term.

8.2.4 Powers of the Board

The Planning Board shall have the following powers and duties:

- (a) To develop a Comprehensive Plan for the orderly growth and development of Chapel Hill and its environs. Such plan shall set forth goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Chapel Hill community;
- (b) To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the general development of the community;
- (c) To undertake, on its own or in collaboration with any other board, commission, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;
- (d) To cooperate with other commissions, boards, or agencies of the Town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the Board's purview or of mutual interest;
- (e) To make studies of the general development characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of development for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;
- (f) To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the Town's jurisdiction, and to review such plans as to conformity with the Comprehensive Plan to make recommendations regarding such plans to the appropriate agency or body, or to the Council. The Board shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the Council;
- (g) To formulate and recommend to the Council the adoption or amendment of ordinances that, in the opinion of the Board will serve to promote the orderly development of the community in accord with the Comprehensive Plan;
- (h) To direct the attention of appropriate Town officials to needed enforcement of any ordinance that may affect the general development of the community;
- (i) To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;

- (j) To promote public interest in an understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the Board, will promote the orderly development of the community in accord with the Comprehensive Plan;
- (k) To request the Council to hold public hearings on matters within the purview of the Board;
- (l) To conduct public meetings and hearings, giving reasonable notice to the public thereof;
- (m) To review and make recommendations to the Council on proposed plats of land subdivision, applications for Special Use Permits, and proposed amendments to Land Use Management Ordinances;
- (n) To review site plans for conformity with land development regulations, in accord with Section 4.7 of this Chapter;
- (o) To review minor subdivision for conformity with land development regulations in accord with Section 4.6.4;
- (p) To recommend to the Council suitable arrangement for the procurement or provision of staff or technical services for the Board;
- (q) To establish an advisory council or other committees within its membership as it may deem necessary;
- (r) To accept funds from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority; and
- (s) To exercise such other powers and to perform such other duties as are authorized or required elsewhere in this Chapter, the N.C. General Statutes, or by the Council.

8.2.5 Meetings

The Board shall establish a regular meeting schedule, and shall meet at least monthly and more often as it shall determine and require. All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes. The Board shall keep a record of its meetings, including attendance of its members, its resolutions, findings, recommendations, and actions. In the case of a divided vote on any question on which the Board is required to act, the record shall include the vote of each member.

8.2.6 Attendance at Meetings

Any member of the Board who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board, and shall be replaced or re-appointed by the Council or Orange County Commissioners, as appropriate. Absence due to a sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

8.2.7 Quorum and Voting

A quorum of the Board, necessary to take any official action, shall consist of five (5) members. The concurring vote of a simple majority of those members present shall be necessary to take any official action.

8.3 Board of Adjustment

8.3.1 Establishment of the Board; Qualifications

A Board of Adjustment, consisting of ten (10) members, is hereby established. Eight (8) members, appointed by the Council, shall reside within the corporate limits of Chapel Hill. One (1) member, appointed by the Orange County Board of Commissioners, shall reside within the Town's extraterritorial zoning jurisdiction. One (1) member, appointed by the Orange County Board of Commissioners, shall reside within the Joint Planning Transition Area. There shall be three (3) alternate members. Two (2) alternate members, appointed by the Council, shall reside within the corporate limits of Chapel Hill. One (1) alternate member, appointed by the Orange County Board of Commissioners, shall reside within the Town's extraterritorial zoning jurisdiction or the Joint Planning Transition Area. Alternate members shall sit as regular member on any matter arising from their respective extraterritorial or transition areas, and may sit as regular members on any matter in the absence of a regular member. The Council may provide for the appointment of such additional number of alternate members as it may in its discretion deem appropriate. Members shall serve without compensation.

The Council or County Board of Commissioners, as appropriate, may appoint alternate members to serve on the Board in the absence of any appointed members. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

8.3.2 Tenure

Members of the Board shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

8.3.3 Officers

The Board shall elect one member to serve as Chair and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chair and other offices shall be one year, with eligibility for reelection to a second term. The Chair or any member temporarily acting as Chair is authorized to administer oaths to any witnesses in any matter coming before the Board.

8.3.4 Powers of the Board

The Board of Adjustment shall have the following powers:

- (a) To hear and decide appeals from any decision made by the Town Manager in the performance of his or her duties in the enforcement of this Chapter;
- (b) To hear and decide appeals from any decision of the Planning Board, Historic District Commission, or Community Design Commission;
- (c) To hear and decide requests for variances from the dimensional regulations of this Chapter, in accord with Section 4.12 of this Chapter;
- (d) To make interpretations of the Zoning Atlas, including disputed questions about zoning district boundary lines or lot lines, and similar questions as they arise in the administration of this Chapter;
- (e) To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;
- (f) To request the Council to hold public hearings on matters within the purview of the Board; and
- (g) To hear and decide any other matter as required by the provisions of this Chapter and the Town Code of Ordinances.

8.3.5 Meetings

The Board shall establish a regular meeting schedule and shall meet frequently enough so that it may take action as expeditiously as reasonably possible.

All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Board shall adopt rules of procedure and regulations for the conduct of its affairs.

In considering appeals, variance requests, and interpretations, the Board shall observe the quasi-judicial procedural requirements set forth in Sections 4.11 and 4.12 of this Chapter.

The Board shall keep a record of its meetings, including attendance of its members, the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.

8.3.6 Attendance at Meetings

Any member of the Board who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board, and shall be replaced or reappointed by the Council or County Board of Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

8.3.7 Quorum and Voting

A quorum of the Board, necessary to take any official action, shall consist of six (6) members.

The concurring vote of four-fifths (4/5) of the membership of the Board shall be necessary in order to:

- (a) approve an application for a variance;
- (b) reverse or modify a decision of the Town Manager, Planning Board, Historic District Commission, or Community Design Commission in the case of applications for appeal; or
- (c) decide in favor of the applicant in any other matter on which the Board is required to act by this Chapter.

The concurring vote of a majority of those members present shall be necessary to conduct routine business of the Board, to deny applications for variances, and, in the case of appeals, to affirm the decision of the Town Manager, Planning Board, Historic District Commission, or Community Design Commission.

8.3.8 Appeals of Board of Adjustment Actions

Every decision of the Board of Adjustment may be appealed to the Superior Court by any aggrieved party. Such appeal must be filed within thirty (30) days of the filing of the decision in the office of the Planning Department or the delivery of the notice required in Section 4.12.1(d), whichever is later.

8.4 Historic District Commission

8.4.1 Establishment of the Commission

A Historic District Commission, consisting of ten (10) members appointed by the Council, is hereby established.

8.4.2 Qualifications

All members of the Commission shall reside within the planning jurisdiction of Chapel Hill, and a majority of the members shall have demonstrated special interest, experience, or education in history or architecture. Members shall serve without compensation.

8.4.3 Tenure

Members of the Commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

8.4.4 Officers

The Commission shall elect one member to serve as Chair and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chair and other officers shall be one year, with eligibility for re-election to a second term.

8.4.5 General Responsibilities of the Commission

The Commission shall seek to promote, enhance, and preserve the character of the Chapel Hill Historic District, provided the Commission shall not require the reconstruction or restoration of individual or original buildings, structures, or portions thereof. In considering new construction, the Commission shall encourage design which is harmonious with the character of the Historic District, but shall not discourage either contemporary or traditional design.

8.4.6 Powers of the Commission

The Commission is authorized and empowered to undertake actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this Chapter and in Chapter 160A, Article 19, Part 3C of the N.C. General Statutes, including but not limited to the following:

- (a) To recommend to the Planning Board and Council areas for designation by ordinance as Historic Districts;
- (b) To recommend to the Planning Board and Council that designation of any areas as a Historic District be revoked or removed;

- (c) To recommend to the Planning Board, Council, and the State of North Carolina structures, sites, objects, or districts worthy of local, State, or national historical recognition;
- (d) To propose to the Council amendments to this Chapter or to any other ordinance relating to the Historic District, and to propose new ordinances or laws relating to the Historic District or to a program for the development of the historical resources of the Chapel Hill community;
- (e) To request the Council to hold public hearings on matters within the purview of the Commission;
- (f) To hear and decide applications for Certificates of Appropriateness in accord with Article 3 of this Chapter;
- (g) To establish guidelines under which the Town Manager shall approve applications for Certificates of Appropriateness covering minor modifications on behalf of the Commission;
- (h) To undertake, on its own or in collaboration with any other commission, board, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;
- (i) To cooperate with other commissions, boards, or agencies of the Town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the Commission's purview or of mutual interest;
- (j) To participate in negotiations with owners and other parties in an effort to find means of preserving historic buildings scheduled for demolition;
- (k) To provide advice to owners of property located within the Historic District concerning the treatment of the historical and visual characteristics of their properties, such as color schemes, gardens and landscape features, and minor decorative elements;
- (l) To publish information or otherwise inform owners of property located within the Historic District about any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
- (m) To contract, in accord with established Town policies and procedures, for services or funds from agencies or departments of the State of North Carolina and the United States government;
- (n) To accept funds granted to the Commission from private or non-profit organizations;
- (o) To organize itself and conduct its business by whatever legal means it deems proper;

- (p) To report violations of this Chapter or related ordinances to the local official responsible for the enforcement thereof;
- (q) To exercise, within the Historic District, all the powers and duties of the Chapel Hill Community Design Commission;
- (r) To exercise such other powers and to perform such other duties as are authorized or required elsewhere by this Chapter, the N.C. General Statutes, or by the Council.

8.4.7 Meetings

The Commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require.

All meetings of the Commission shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Commission shall adopt rules of procedure and regulations for the conduct of its affairs.

The Commission shall keep a record of its meetings, including attendance of its members, and its resolutions, findings, recommendations, and actions.

8.4.8 Attendance at Meetings

Any member of the Commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Commission, and shall be replaced or reappointed by the Council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Commission except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

8.4.9 Quorum and Voting

A quorum of the Commission, necessary to take any official action, shall consist of five (5) members.

The concurring vote of a simple majority of those members present shall be necessary to take any official action.

8.4.10 Historical and Architectural Significance Maps

The Commission shall prepare, maintain, and consult maps showing the historic and architectural significance of structures within the Historic District. Such maps shall be updated at least every five (5) years.

A structure is deemed to have historic and/or architectural significance if it possesses integrity of location, design, setting, materials, workmanship, feeling, and association, and if it:

- (a) is associated with events that have made a significant contribution to the broad patterns of local, State, or national history; or
- (b) is associated with the lives of persons significant in the past; or
- (c) embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
- (d) has yielded, or may be likely to yield, information important in prehistory or local, State, and national history.

8.5 Community Design Commission

8.5.1 Establishment of the Commission

A Community Design Commission, consisting of ten (10) members appointed by the Council, is hereby established. In addition to Council-appointed members, the Planning Board, Parks and Recreation Commission, Transportation Board, Greenways Commission, and Historic District Commission shall designate one representative from their respective boards to be members of the Community Design Commission, each with full voting privileges.

8.5.2 Qualifications

All members of the Commission which have been appointed by the Council shall reside within the planning jurisdiction of Chapel Hill, and a majority of the members shall have demonstrated special training, experience, or interest in a design field, such as architecture, landscape design, horticulture, city planning, or a closely related field. Members shall serve without compensation, but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the Commission.

8.5.3 Tenure

Members of the Commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

8.5.4 Officers

The Commission shall elect one member to serve as Chair and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chair and other officers shall be one year, with eligibility for re-election to a second term.

8.5.5 Powers of the Commission

The Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this Chapter, in Chapter 160A, Article 19, Part 7 of the N.C. General Statutes, and in Chapter 278 of the N.C. Session Laws of 1965, including but not limited to the following:

- (a) To review Site Analysis Data and Conceptual Development Plans, and offer recommendations to the applicant.
- (b) To initiate, promote, and assist in the implementation of programs of general community beautification in the Chapel Hill community;
- (c) To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the appearance of the community;
- (d) To provide leadership and guidance in matters of community design and appearance to individuals and public or private agencies and organizations;
- (e) To make studies of the visual characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;
- (f) To prepare both general and specific plans for the improved appearance of the entire community or any portion thereof, including private as well as public property. Such plans shall set forth desirable standards and goals for the aesthetic enhancement of the community or any portion thereof, including public ways and areas, open spaces, and public and private buildings and projects;
- (g) To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the Town's jurisdiction, and to review such plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or body, or to the Council. The Commission shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the Council;

- (h) To formulate and recommend to the Planning Board and Council the adoption or amendment of ordinances that, in the opinion of the Commission, will serve to enhance the appearance of the community and/or strengthen design standards for development within the Town's jurisdiction;
- (i) To direct the attention of appropriate Town officials to needed enforcement of any ordinance that may affect the appearance of the community;
- (j) To seek voluntary adherence to the standards and policies of its plans;
- (k) To enter, at reasonable times, upon private lands and make examinations or surveys as necessary in the performance of its official duties;
- (l) To promote public interest in and understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the Commission, will advance the cause of improved community appearance;
- (m) To conduct public meetings and hearings, giving reasonable notice to the public thereof;
- (n) To conduct an annual meeting at which the programs, problems, and policies of the Commission shall be presented, and at which the public at large shall be invited to express itself on matters relating to the appearance and adopted design standards of the community;
- (o) To recommend to the Council suitable arrangement for the procurement or provision of staff or technical services for the Commission;
- (p) To establish an advisory council or other committees within its membership as it may deem necessary;
- (q) To accept funds from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority;
- (r) To review all schematic building designs for Special Use Permits or Special Use Permit Modifications, and forward comments and recommendations for consideration at Council public hearings;
- (s) To review lighting plans and building elevations filed as part of an application for development; and
- (t) To review alternative landscape bufferyards in accordance with Section 5.6.6 of this Chapter.

8.5.6 Meetings

The Commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require.

All meetings of the Commission shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Commission shall keep a record of its meetings, including attendance of its members, and its resolutions, findings, recommendations, and actions.

8.5.7 Attendance at Meetings

Any member of the Commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Commission, and shall be replaced or reappointed by the Council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Commission, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

8.5.8 Quorum and Voting

A quorum of the Commission, necessary to take any official action, shall consist of five (5) members.

The concurring vote of a simple majority of those members present shall be necessary to take any official action.

8.6 Town Manager

The provisions of this Chapter shall be administered by the Town Manager or his/her designee. All references in this Chapter to "Town Manager" shall be construed to mean "Town Manager or his/her designee."

The Town Manager shall have the following powers and duties in the administration of the provisions of this Chapter:

- (a) To grant Zoning Compliance Permits;
- (b) To make inspections of buildings or premises as necessary in the performance of his or her duties in the enforcement of this Chapter;
- (c) To make all necessary determinations and interpretations as required by this Chapter; and
- (d) To propose and promulgate administrative regulations necessary to implement the provisions of this Chapter.

Under no circumstance is the Town Manager permitted to make changes in this Chapter or to grant exceptions (a) to the actual meaning of any clause, standard, or regulation contained in this Chapter, or (b) from any clause, standard, or regulation contained in this Chapter. The Town Manager does not have authority to approve exceptions to or vary from any regulations stated in this Ordinance.

ARTICLE 9. LEGAL STATUS

This Article establishes several technical rules relating to the legal status of this Chapter.

9.1 Severability

It is the legislative intent of the Town Council in adopting this Chapter that all provisions thereof shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the Town and its extraterritorial planning jurisdiction. It is the further intent of the Town Council that this Chapter shall stand, notwithstanding the invalidity of any part thereof, and that should any provision of this Chapter be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions.

9.2 Conflict With Other Laws

When provisions of this Chapter impose higher standards than are required in any other statute or local ordinance or regulation, provisions of this Chapter shall govern. When the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this Chapter, the provisions of that statute or local ordinance or regulation shall govern.

9.3 Repeal of Existing Zoning Regulations

The existing Development Ordinance as initially enacted May 11, 1981, and as subsequently amended, is hereby repealed. The adoption of this Chapter, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, an existing violation of said regulations.

APPENDIX A. DEFINITIONS

This Appendix provides definitions and rules for interpreting this Chapter.

Interpretation of Terms or Words:

For the purpose of this Chapter, certain terms or words used herein shall be interpreted as follows:

1. The word "shall" is always mandatory and the word "may" is permissive.
2. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".

Terms not herein defined shall have the meanings customarily assigned to them.

List of Terms or Words

Above Average Rainfall:

The hydrologic condition that exists when rainfall for the preceding 30 days is greater than 120% of the average rainfall for the same period, as recorded by the National Weather Service.

Adult Day Care Facility:

A use of land and buildings that provides care on a regular basis to aging, disabled or handicapped adults away from their homes, and by persons other than family members, guardians, or custodians, and where a payment, fee or grant is made for such care. The term Adult Day Care Facility shall not be construed to include a Group Care Facility.

Agriculture, Non-Livestock:

The use of land for the production of cash grains, field crops, vegetables, fruits, and nuts, and for horticulture and floriculture.

Agriculture, Livestock:

The use of land for the keeping, grazing, feeding, or breeding of livestock, including cattle, hogs, sheep, goats, and poultry, and also animal specialties such as horses, breeding of livestock, including cattle, hogs, sheep, goats, and poultry, and also animal specialties such as horses, rabbits, bees, and fish and fur-bearing animals in captivity.

Alley:

A publicly dedicated and maintained right-of-way twenty (20) feet or less in width that provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

Antenna:

Any apparatus, or group of apparatus, designed for the transmitting and/or receiving of electromagnetic waves that includes, but is not limited to, telephonic, radio or television communications. Antennas include omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multi or single bay (FM & TV), yaggie, or parabolic (dish) antennas, but do not include satellite earth stations.

Applicant:

Any person or his/her duly authorized representative who submits an Application as defined herein.

Application:

An application for approval of any subdivision plat, site plan, master land use plan, site specific development plan, special use permit, rezoning, conditional use district, or zoning compliance permit.

Area of Shallow Flooding:

A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity may be evident.

Area of Special Flood Hazard:

The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

Automated Teller Machine (ATM), Walk-up:

A computer-controlled terminal associated with a financial institution, not accessible by motorized vehicle, through which a customer may make deposits, withdrawals, or other transactions. Other terms sometimes used to describe such terminals are customer-bank communications terminal (CBCT) and remote service unit (RSU).

Automated Teller Machine (ATM), Drive-up:

A computer-controlled terminal associated with a financial institution, accessible by motorized vehicle, through which a customer may make deposits, withdrawals, or other transactions. Other terms sometimes used to describe such terminals are customer-bank communications terminal (CBCT) and remote service unit (RSU).

Automotive Repair:

The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

Automotive, Trailer, Farm Implement Sales or Rental:

The sale or rental of new and used motor vehicles, travel trailers, or farm implements to be displayed and sold on the premises, but not including repair work except incidental warranty repair of the above.

Bank:

Financial institution engaged in deposit banking and closely related functions such as the extension of credit by means of loans and investments, and fiduciary activities.

Bankfull Elevation:

The top elevation of a stream's current active channel.

Barber Shop/Beauty Salon:

An establishment that provides services generally involving the cutting and styling of hair, and including customary accessory uses such as shoe polishing, manicure work, facial treatment, the sale and fitting of wigs, and the sale of hair treatment products.

Base Flood:

The flood having a one percent chance of being equaled or exceeded in any given year (the 100 year flood).

Basement:

That portion of a building between floor and ceiling, that is wholly or partly below grade.

Best Management Practice (BMP):

A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source pollution inputs to receiving waters in order to achieve water quality protection goals.

BMP Manual:

The document published by the North Carolina Department of Environment and Natural Resources entitled "Stormwater Best Management Practices" (April 1999), which document is hereby incorporated by reference.

Building:

Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

Building, Accessory:

A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the principal building.

Building, Principal:

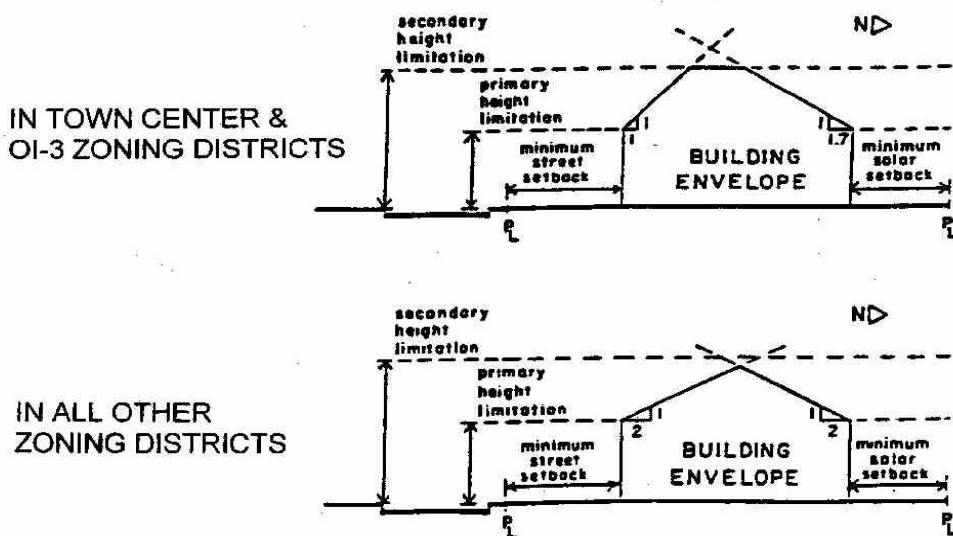
A building or, where the context so indicates, a group of buildings in which is conducted the principal use of the lot on which such building is located.

Building Envelope:

The three-dimensional space within which a structure is permitted to be built on a zoning lot, and which is defined by setback and height regulations.

BUILDING ENVELOPE

(AS DEFINED BY SETBACK & HEIGHT REQUIREMENTS)



Built-upon Area:

That portion of a development project that is covered by impervious or partially impervious surfaces including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Slatted decks and the water area of a swimming pool are considered pervious.)

Business, Convenience:

Commercial establishments that generally serve day-to-day commercial needs of a residential neighborhood, including drugstores, tobacco shops, newsstands, bakeries, confectioneries, delicatessens, meat and produce markets, food stores with less than ten thousand (10,000) square feet in floor area, and eating and drinking establishments.

Business, General:

Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs of a whole community, including supermarkets, department stores, discount stores, variety stores, hardware and garden supply stores, apparel and footwear stores, florists, gift shops, jewelry stores, book and stationery stores, specialty shops, sporting goods stores, furniture and home furnishing stores, automotive supply stores, and appliance stores.

Business, Office-Type:

Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, stenographic, and drafting occupations, and including institutional offices of a charitable, philanthropic, religious, or educational nature.

Business, Wholesale:

Commercial establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments, basically for use in the fabrication of a product or for use by a business service.

Business Services:

Any profit-making activity that renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.

Car Wash:

A facility for the washing, cleaning, vacuuming and polishing of automobiles, pick up trucks and other light trucks, but not construction equipment or semi tractor trailer trucks, and for the sale of automotive washing, cleaning and polishing supplies.

Cementitious:

Having cement-like, cementing, or bonding type properties; material or substance producing bonding properties or cement-like materials.

Cemetery:

Any one or a combination of more than one of the following in a place used or to be used and dedicated or designated for cemetery purposes: (a) a burial park, for earth interment; (b) a mausoleum; or (c) a columbarium. (*Source: GENERAL STATUTES Section 65-48*). A “cemetery” includes a licensed cemetery, but not an unlicensed cemetery. A “licensed cemetery” means land and facilities used for burial of the dead meeting the requirements of a perpetual care cemetery under State law. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the State. An “unlicensed cemetery” means land and facilities used for the burial of the dead, including municipal, private family, farm, church or animal cemeteries, which have not been licensed and do not meet the licensing requirements of a perpetual care cemetery under State law.

Certificate of Appropriateness:

A document issued by the Historic District Commission certifying compliance with the provisions of [Article 3](#).

Certificate of Occupancy:

A document issued by the Building Inspector certifying compliance with all applicable state and local laws, including all terms of an approved Zoning Compliance Permit, and authorizing occupancy of a building or structure.

Channel:

A natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

Child Day Care Facility:

A use of land and buildings that provides care to preschool children away from their homes, and by persons other than family members, guardians, or custodians, and where a payment, fee, or grant is made for such care.

Church:

See Place of Worship.

Clinic:

An establishment used for the care, diagnosis, therapy, or counseling of sick, ailing, infirm, or injured persons or non-medical therapy and counseling on an outpatient basis.

Club:

An establishment operated by a corporation or association of persons for social, literary, political, educational, fraternal, or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.

Cluster Development:

A subdivision in which building lots are grouped together through a transfer of allowable density within the subdivided tract. Cluster development permits more efficient development by creating lots with gross land areas smaller than those required for conventional lot-by-lot development, yet maintains application of normal lot density standards to the subdivided tract as a whole by requiring that land area saved by lot size reductions be reserved as permanent recreation area. See Section 3.8.8.

College, University, or Professional School:

A degree-granting establishment, and its associated programs, centers, and functions, providing formal academic education and generally requiring for admission at least a high school diploma or equivalent academic training, including colleges, junior colleges, universities, technical institutes, seminaries, and professional schools (architectural, dental, engineering, law, medical, etc.)

Commercial Subdivision:

The subdivision of a development on a zoning lot that consists of uses designated within Use Group B and/or Use Group C in the Use Matrix (Section 3.7, Table 3.7-1). Such a subdivision would create two (2) or more individual lots plus land developed and designated for the common use and benefit of the occupants/owners of the individual commercial subdivision lots, provided:

- 1) That an entity is designated to be legally responsible for maintenance and control of the common land areas;

- 2) That the Special Use Permit Approval or Site Plan Approval which encumbers the entire zoning lot be recorded at the Orange or Durham County Register of Deeds Office, whichever is appropriate;
- 3) That an application for any change to a Special Use Permit Approval or Site Plan Approval shall require that the application be signed by all property owners of the zoning lot for which the Special Use Permit Approval or Site Plan Approval applies;
- 4) That a Zoning Compliance Permit shall be issued and valid for the development prior to application for commercial subdivision;
- 5) That all parking area, drive aisles, and required Outdoor Space shall be the common land area; and
- 6) The individual lots within a commercial subdivision shall not be required to meet the lot design standards of Section 5.2 or the intensity regulations of Section 3.8, provided the zoning lot containing the commercial subdivision meets such standards.

Common Ownership:

Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stock owner, partner, or associate, or a member of his/her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association, but excluding ownership of less than 1% of any stock traded on the New York, American or Pacific Stock Exchanges or traded over-the-counter where the price is listed at least weekly in the Wall Street Journal.

Comprehensive Plan:

A plan, or any portion thereof, adopted by the Town Council, establishing goals, objectives, and policies designed to manage the quantity, type, location, timing, and quality of development and redevelopment in the Chapel Hill community.

Conditional Use District:

A zoning district requested by the property owner in which all uses are considered a special use. See Section 4.4 of this Chapter.

“Construction Commences”:

Means that construction has commenced in accordance with the terms of a building permit, as set forth in North Carolina General Statutes Section 160A-418.

Contiguous Property:

Property bordering, adjoining, or meeting at the boundary, border or surface.

Council:

See Town Council.

Critical Root Zone:

A circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to any point twelve (12) times the diameter at breast height (DBH), which points constitute the circumference of the critical root zone. The critical root zone shall extend to a depth of five (5) feet below surface ground level.

Cutoff:

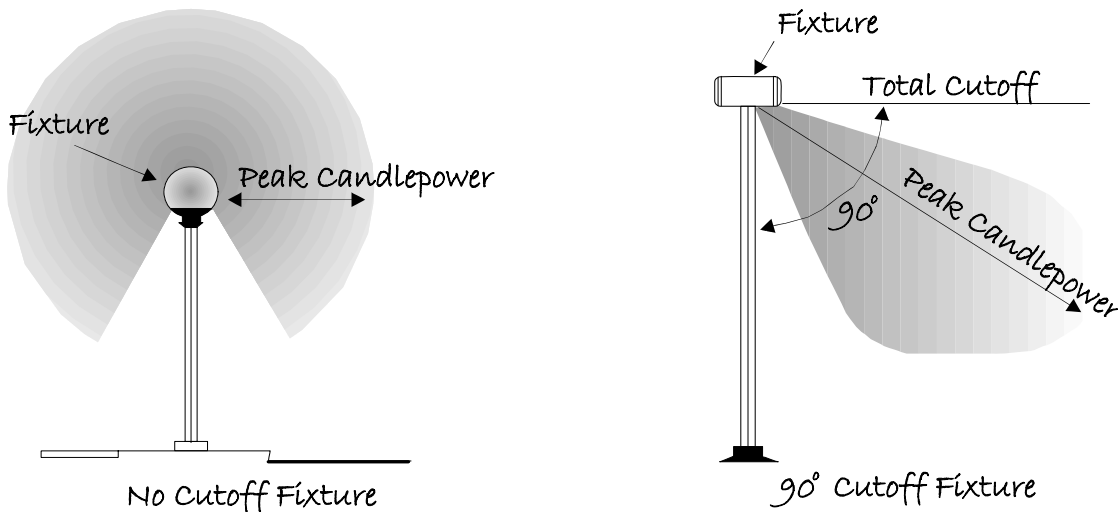
The point at which all light emitted from a source or fixture is eliminated at a specific angle above ground level.

Cutoff Angle:

The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

Cutoff Light:

A fixture with elements such as shields, reflectors, or reflector panels which direct and cutoff the light at a cutoff angle that is not more than 90 degrees. Typically this type of fixture conceals the light source, thus reducing glare and spillover of light.



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DBH - Diameter at Breast Height:

The total cross-sectional diameter of the trunk(s) of a tree measured 4.5 feet from the ground at the center of the tree.

Decision maker:

The entity or agency which has authority to render a final decision as to the approval, conditional approval, or denial of an Application.

Dedication:

The deliberate appropriation of property by its owner for general public use.

Density:

The average number of families, persons, or housing units per acre of land.

Design Manual:

The most recent version of a document entitled “Town of Chapel Hill Design Manual”, which document is hereby incorporated by this reference.

Design Vehicle:

Typical vehicle sizes which are used to design street, parking and/or loading area facilities. The Design Vehicle is designated by wheelbase length, in meters (e.g., WB-43 means a wheelbase size of 43 meters). [Reference: AASHTO, A Policy on Geometric Design of Highways and Streets (1994), at 647.]

Detention:

The temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention Facility:

A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer:

A person who undertakes land disturbance activities.

Developing Land:

A zoning lot on which surveying for development is currently taking place or for which an application is currently being reviewed for development by the Town Planning staff or for which development activities are approved.

Development:

Any man-made change to improved or unimproved real estate, including, but not limited to: the construction, erection, structural alteration, enlargement, or rehabilitation of any buildings or other structures, including farm buildings; mining; dredging; filling; grading; paving; excavation or drilling operations; clearing of vegetation; any division of a parcel of land into two (2) or more parcels and any use or change in use of any structures or land. Development shall also include any land disturbing activity on improved or unimproved real estate that changes the amount of impervious or partially impervious surfaces on a parcel, or that otherwise decreases the natural infiltration of precipitation into the soil.

Director:

See Planning Director.

Disturbed Area:

An area of land subjected to erosion due to the removal of vegetative cover and/or earthmoving activities, including filling. Examples of Disturbed Areas include, but are not limited to, impervious surfaces, pervious surfaces, lawns, and stormwater detention or retention ponds.

Disturbed Area Ratio:

A decimal fraction, when multiplied by the gross land area of a zoning lot, determines the maximum Disturbed Area permitted within the zoning lot.

Ditch or Canal:

A man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial streams.

Dormitory:

A building used as group quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.

Drainage Easement:

A legal right granted by a landowner allowing the use of private land for stormwater management purposes.

Drive-In Window:

A window or other opening in the wall of a principal building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.

Driveway:

A vehicular way, other than a street or alley, that provides vehicular access from a street to or through off-street parking and/or loading areas.

Drought:

The hydrologic condition that exists when rainfall for the preceding thirty (30) days is less than 80% of the average rainfall for the same period, as recorded by the National Weather Service.

Dwelling:

Any building or structure (except a mobile home) that is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

Dwelling Units, Single-Family:

A detached dwelling consisting of a single dwelling unit only. A single-family dwelling shall be classified as a Rooming House if occupied by more than four persons who are not related by blood, adoption, marriage, or domestic partnership.

Dwelling Units, Two-Family:

A dwelling or combination of dwellings on a single lot consisting of two (2) dwelling units. Any dwelling unit that is part of a two-family dwelling shall be classified as a Rooming House if occupied by more than four persons who are not related by blood, adoption, marriage, or domestic partnership.

Dwelling Units, Single-Family – With Accessory Apartment:

A dwelling or combination of dwellings on a single zoning lot consisting of two (2) dwelling units, provided the floor area of one of the dwelling units does not exceed fifty percent (50%) of the floor area of the other dwelling unit, nor is greater than 750 square feet and further provided the dwelling's exterior design and entry locations give the dwelling the appearance of a single-family dwelling. Any dwelling unit that is part of a two-family dwelling shall be classified as a Rooming House if occupied by more than four persons who are not related by blood, adoption, marriage, or domestic partnership.

Dwelling Units, Two-Family - Duplex:

A single dwelling consisting of two (2) dwelling units (other than a “two-family dwelling - including accessory apartment”), provided the two dwelling units are connected by or share a common floor-to-ceiling wall, or, if the two units are arranged vertically, that they share a common floor/ceiling and not simply by an unenclosed passageway (e.g., covered walkway) and provided that each dwelling contains no more than six (6) bedrooms per structure. Any dwelling unit that is part of a two-family dwelling shall be classified as a Rooming House if occupied by more than four persons who are not related by blood, adoption, marriage, or domestic partnership.

Dwelling Units, Multi-Family:

A dwelling or combination of dwellings on a single lot consisting of three (3) or more dwelling units.

Dwelling Unit:

A room or group of rooms within a dwelling forming a single independent habitable unit used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with Chapel Hill's Minimum Housing Code.

Efficiency Dwelling Unit:

A dwelling unit in which living and sleeping activities are conducted or intended to be conducted within a single room.

Engineered Stormwater Controls:

A structural best management practice (BMP) used to reduce non-point source pollution to receiving waters in order to achieve water quality protection.

Ephemeral Stream:

A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

Erosion and Sediment Control Plan:

A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Essential Services:

The erection, construction, alteration, or maintenance by public utilities or governmental agencies of traffic distribution systems; water, sewage, steam, gas, electrical, or communication transmission or distribution systems; and storm water collection and distribution systems; including streets, sidewalks, street lights, bus passenger shelters, traffic signals, pipes, hydrants, pumping stations, wires, curb-and-gutter, catch basin, drains, or other similar equipment and accessories reasonably necessary for the provision of adequate service by such public utilities or governmental agencies, but not including buildings or other substantial above-ground structures (see Public Service Facility and Radio or Television Transmitting and/or Receiving/Facility).

Exterior Architectural Features:

"Exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs.

Extraction of Earth Products:

The process of removal of natural deposits of mineral ores, soils, or other solid matter from their original location, not including any processing of such material beyond incidental mechanical consolidation or sorting to facilitate transportation off-site.

Extraterritorial Jurisdictions or "ETJ":

The territory, outside of the Town Limits within which the Town may exercise the powers conferred by Article 19 of Chapter 160A of the North Carolina General Statutes, as set forth in North Carolina General Statutes Section 160A-360.

Family:

An individual living alone or two (2) or more persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" shall include an establishment with support and supervisory personnel that provides room and board, personal care and habitation services in a family environment for not more than 6 residents who are handicapped, aged, disabled, or who are runaway, disturbed or emotionally deprived children and who are undergoing rehabilitation or extended care. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.

Fine Arts Educational Institution:

Private entities that provide instruction and facilities for training and education in the fine arts, such as ballet schools, music conservatories, and visual arts schools. These uses may include performances and exhibits as accessory activities associated with the principal use.

Flag Lot:

An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm of the lot, that does not meet the minimum lot width and street frontage standards specified in Section 3.8 for the zoning district in which the lot is located (see Figures 5.2.6-1 to 5.2.6-3).

Flex Space:

A building designed to accommodate a combination of office, wholesale, and warehousing functions, the exact proportions of each use being subject to needs over time. Flex space buildings are typically located in business or industrial parks and usually have a footprint exceeding 10,000 square feet. They are usually designed with loading docks to the rear and parking in the front. The front facade is often treated with a higher quality of architectural finish than the rear and sides.

Flood or Flooding:

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) the overflow of inland or tidal waters;
- 2) the unusual and rapid accumulation of runoff of surface waters from any sources.

Flood Hazard Boundary Map (FHBM):

The official map of a community, on which the Federal Emergency Management Agency, or its successor agency, has delineated both the areas of special flood hazard and the risk premium zones applicable to Chapel Hill.

Flood Insurance Study:

The official report provided by the Federal Emergency Management Agency (FEMA), or its successor agency, containing flood profiles as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

Floor:

The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Floor Area:

The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, patios, atriums, balconies, carports, garages, breezeways, and screened porches.

Floor Area Ratio (FAR):

A decimal fraction that, when multiplied by the gross land area of a zoning lot, determines the maximum floor area permitted within the zoning lot. The Floor Area Ratios for the various zoning districts are in the Schedule of Intensity Regulations.

Foot-candle (FC):

A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

Footprint:

The area bounded by the external walls of any structure.

Fraternity or Sorority Dwelling:

A dwelling or combination of dwellings on a single lot occupied by and maintained exclusively for college, university, or professional school students who are affiliated with a social, honorary, or professional organization recognized by the college, university, or professional school.

Funeral Home:

An establishment primarily engaged in preparing the dead for burial, conducting funerals, and cremating the human dead.

General Use Districts:

The zoning districts which govern usual and typical development situations, which are established by Section 3.3 of this Ordinance.

Glare:

The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort, or loss of visual performance and ability.

Gross Land Area:

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) public streets; provided that the total amount of credited open space and public streets shall not exceed ten percent (10%) of the net land area of the zoning lot.

Group Care Facility:

An establishment qualified for a license by the State of North Carolina for the provision of resident services to seven (7) or more individuals of whom one or more are unrelated, and who are handicapped, aged, disabled, or who are runaway, disturbed, or emotionally deprived children and who are undergoing rehabilitation or extended care, and who are provided services to meet their needs. Included are group homes for all ages, halfway houses, boarding homes for children, and convalescent and nursing homes.

Hazardous Materials:

Those materials listed in the most current Consolidated List of Chemicals covered by Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III.

Headway:

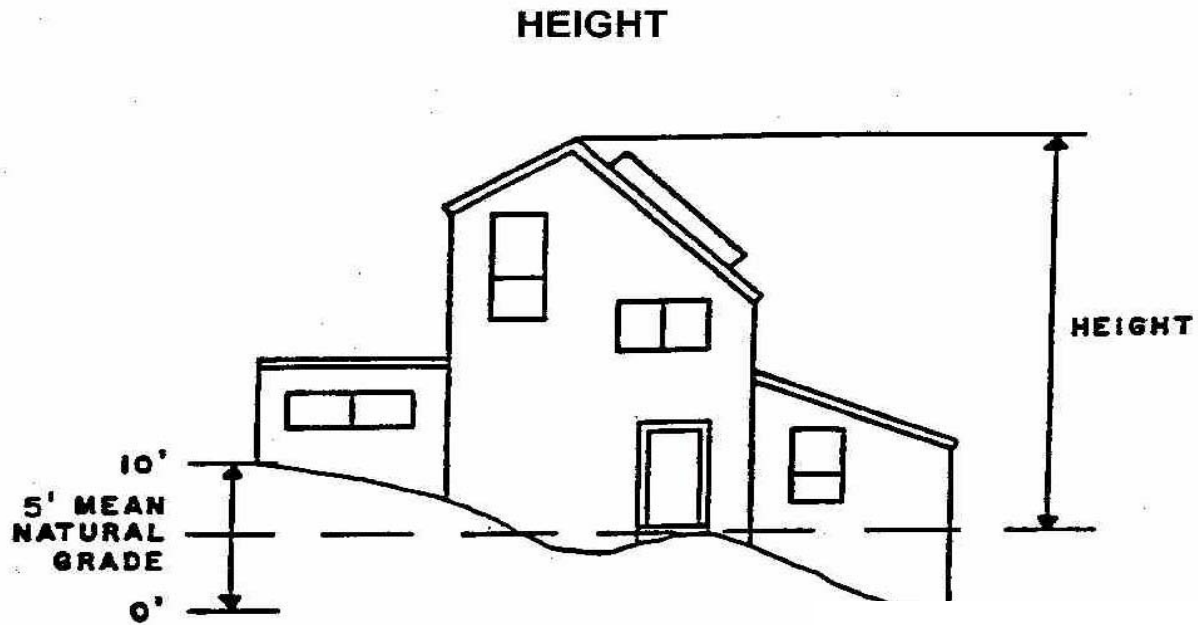
The time interval between transit vehicles moving in the same direction on a particular route.

Healthy Living Tree:

A tree that is relatively free of disease or rotten wood and that has prospects for longtime survival.

Height (of a Structure or Part thereof):

The vertical distance from the mean natural grade at the foundation to the highest portion of the structure, or part thereof

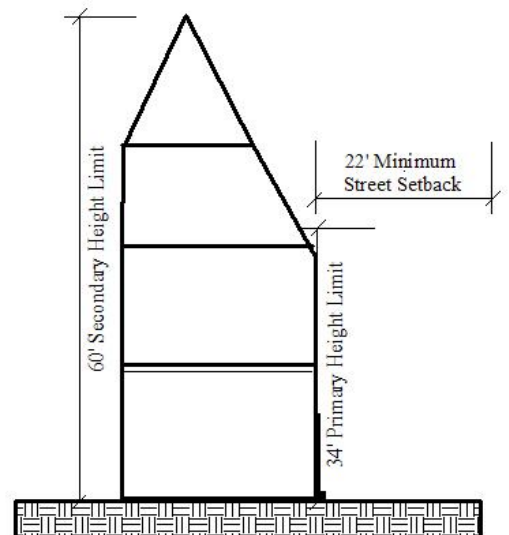


Height Limitation, Primary:

The maximum height allowed for any structure located at the minimum setback required for such structure. The minimum setbacks and primary/ secondary height limits are established in the Dimensional Matrix, Section 3.8, Table 3.8-1.

Height Limitation, Secondary:

The absolute maximum height allowed for any structure, as shown in Section 3.8.



High Density Option:

One of two approaches available for development in watershed overlay districts. Generally, the high density option relies on density limits and engineered stormwater controls to minimize the risk of water pollution.

Highest Adjacent Grade:

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Home Occupation:

An occupation conducted as an accessory use of a dwelling unit, provided that:

- (a) Home occupations shall have a limit of one full-time equivalent employee who is not a member of the family residing in the home with the home occupation; “Full-time equivalent employee” refers to one or more employees who work a total of no more than forty (40) combined hours on-site per week;
- (b) The use of the dwelling unit or accessory buildings for the home occupation shall be clearly incidental and subordinate to the use of the property for residential purposes, and not more than thirty-five percent (35%) nor more than 750 square feet of the floor area of the dwelling unit and any accessory buildings combined shall be used in the conduct of the home occupations; provided, that the floor area defined as used in the home occupation is the area dedicated to or primarily used for the home occupation, and does not include areas incidentally used for the home occupation;
- (c) No external evidence of the conduct of the home occupation, including commercial signs, shall be visible;
- (d) Traffic and Parking Regulations;
 - (1) The home occupation shall not generate traffic volumes or parking area needs greater than would normally be expected in the residential neighborhood.
 - (2) In addition, normally there shall be no more than three (3) vehicles parked at any time on- or off-street for non-residential purposes including but not limited to parking by non-resident employees, customers, delivery services, etc.; but excluding drop-offs and pick-ups. Home occupations for arts education or similar educational purposes are exempt from any parking restrictions.
 - (3) There shall be no regular pick-up and delivery by vehicles other than those of a size normally used for household deliveries.
- (e) No equipment or process shall be employed that will cause noise, vibration, odor, glare, or electrical or communication interference detectable to the normal senses off the lot in the case of detached dwelling units, or outside the dwelling unit in the case of attached dwelling units;

- (f) The on-premises sale and delivery of goods which are not the products of the home occupation are prohibited, except that the sale of goods which are incidental to a service of the home occupation is permitted;
- (g) A zoning compliance permit is issued for the home occupation(s). The permit shall describe the nature of the business and include the applicant's certification that the home occupation will be conducted in accord with the Land Use Management Ordinance and other applicable laws and ordinances. The Town Manager may revoke a Zoning Compliance Permit for a Home Occupation if he/she determines the conditions were being violated. Once a home occupation permit has been granted, it shall remain in effect until: (1) it is revoked by the Town; (2) the home occupation is terminated by the resident or residents for one hundred eighty (180) or more days; or (3) the holder of the permit moves from the residence.

Hospital:

An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, and staff offices.

Hotel or Motel:

A building or group of buildings containing in combination ten (10) or more lodging units intended primarily for rental or lease to transients by the day or week, as distinguished from residence halls, in which occupancy is generally by residents rather than transients.

Hydrologic Abstraction:

The reduction of total rainfall to effective rainfall through runoff interception, infiltration, surface storage, evaporation, and/or evapotranspiration.

Hydrologic Soil Group (HSG):

A Soil Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Impervious Surface:

A surface composed of any material that impedes or prevents natural infiltration of water into the soil.

Industrial Stormwater Permit:

A National Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration:

The process of percolating stormwater into the subsoil.

Infiltration Facility:

Any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

Intensity:

The degree to which land is used, generally measured by a combination of the type of land use and the amount of land or floor area devoted to that use.

Intermittent Stream:

A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

Jurisdictional Wetland:

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. This definition is limited to areas deemed wetlands by the current delineation practices of the U.S. Army Corps of Engineers.

Kennel:

Any lot or premises on which four (4) or more domesticated animals more than four (4) months of age are housed, groomed, bred, boarded, trained, or sold.

Land Disturbance:

Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, or highway or road construction or maintenance that results in a change in the natural cover or topography. A “land disturbance” includes any activity that changes the existing hydrological characteristics of the land surface. This may include the grading, digging, cutting, scraping, compaction, or excavation of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse. Routine maintenance of landscape areas is not included as “land disturbance.”

Landfill:

Any lot or premises on which is deposited solid waste material, including trash, construction debris, stumps, branches and limbs, garbage, and industrial waste.

Landowner:

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Landscape Protection Certificate:

A certificate granted by the Town Manager to any individual who completes the Landscape Protection Seminar.

Landscape Protection Plan:

A plan identifying existing landscape elements, proposed changes, and protection measures to be used to aid the survival of such landscape elements as defined in Section 5.7.

Landscape Protection Seminar:

A presentation administered by the Town to all persons seeking certification as a Landscape Protection Supervisor.

Landscape Protection Supervisor:

A person who has attended the Landscape Protection Seminar and acquired a Landscape Protection Certificate.

Level of Service:

An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based upon and related to the operational characteristics of the facility. Level of Service indicates the Capacity per unit of demand for each Public Facility.

Light Source:

The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

Loading, Off-Street:

Space located outside any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

Local Street:

A Street designed and used primarily for access to lots within a Subdivision or neighborhood. Streets which are not classified as Arterial Streets or Collector Streets shall be classified as Local Streets.

Lodging Unit:

A room or group of rooms forming a separate habitable unit used or intended to be used for living and sleeping purposes by one family only, without independent kitchen facilities; or a separate habitable unit, with or without independent kitchen facilities, occupied or intended to be occupied by transients on a rental or lease basis for periods of less than one week.

Lot:

Land bounded by lines legally established for the purpose of property division. As used in this Chapter, unless the context indicates otherwise, the term refers to a zoning lot.

Lot Line:

A line that marks the boundary of a lot.

Lot Line, Interior:

Any lot line that is not a street lot line; a lot line separating a lot from another lot.

Lot Line, North:

Any portion of a lot line that has an alignment within forty-five degrees (45°) of an East/West axis.

Lot Line, Street:

Any lot line separating a lot from a street right-of-way or easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot shall be considered the street lot line.

Lot Line, Zero:

Any interior or north lot line along which a structure is allowed with no setback in accord with the zero lot line development standards of Table 3.8-1.

Lot Width:

The horizontal distance measured along a straight line connecting the points at which a line demarcating the minimum street setback required from a street lot line intersects with interior lot lines and/or other street lot lines (see definition of Street Frontage Width).

Low Density Option:

One of two approaches available for development in watershed overlay districts. Generally, the low density option relies on non-structural means, specifically density limits, to minimize risk of water pollution.

Lumen:

A quantitative unit measuring the amount of light emitted by a light source.

M.A.I. Appraiser:

A member of the American Institute of Real Estate Appraisers.

Maintenance Agreement:

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

Maintenance and or Storage Facility:

Land, building, or structure devoted primarily to the maintenance and/or storage of equipment and materials.

Major Bus Boarding Location:

The right-of-way of any Street Link or series of Street Links in which at least four (4) Bus Shelters are located within a distance of one (1) mile, or in which headways occur at intervals not exceeding an average of ten (10) minutes from 7:00 to 9:00 am and 5:00 to 6:00 p.m. as provided in the then-existing Route Schedules published by Chapel Hill Transit.

Manufactured Home:

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site.

Manufactured Home Park or Subdivision:

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufacturing, Light:

Manufacturing, processing, creating, renovating, painting, cleaning, assembly of goods, merchandise, and equipment, or other industrial uses which have all operations and storage within enclosed structures.

Mean Sea Level:

The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For purposes of this Chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD). For purposes of national flood insurance programs, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Minimum Parking Requirements:

The minimum number of parking spaces required pursuant to Section 5.9.7(c) of this Chapter.

Mobile Home:

A single portable manufactured housing unit, or a combination of two (2) or more such units connected on-site, that is

- a) designed to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only and containing independent kitchen, sanitary, and sleeping facilities;
- b) designed so that each housing unit can be transported on its own chassis;
- c) placed on a temporary or semi-permanent foundation; and
- d) is over thirty-two (32) feet in length and over eight (8) feet in width.

Mobile Home, Class A:

A mobile home that meets the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards and which is certified by the Town Manager as meeting the following appearance performance criteria: a) the mobile home shall have a length not exceeding four (4) times its width; b) the pitch of the mobile home's roof shall have a minimum vertical rise of one foot for each five (5) feet of horizontal run; c) the exterior materials shall be of a color, material, and scale compatible with those existing in the immediate vicinity, and in no case shall the degree of reflectivity of exterior finishes exceed that of gloss white paint; d) a continuous permanent masonry foundation, unpierced except for required ventilation, shall be installed under the mobile home; and e) the tongue and undercarriage chassis shall be removed subsequent to final placement.

Mobile Home, Class B:

A mobile home that meets the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards or, after inspection by the Building Inspector, is found to be in good condition and fit and safe for human occupancy, but which is not certified as meeting the appearance performance criteria contained in definition of Mobile Home, Class A, above.

Mobile Home Park:

A combination of two (2) or more mobile homes on a single zoning lot.

Modified Natural Stream:

An on-site channelization or relocation of a stream channel and subsequent relocation of the intermittent or perennial flow, as evidenced by topographic alterations in the immediate watershed. A modified natural stream must have the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

National Geodetic Vertical Datum (NGVD):

A vertical control, as corrected in 1929, used as a reference for establishing varying elevations within the flood plain.

Node:

Any of the following:

(1) The terminus or intersection of two (2) or more Streets; (3) the head or bulb of a cul-de-sac; or (4) the terminus of a dead-end street.

Nonconforming Feature:

A physical feature or characteristic or a use, building, structure, or other development of land that was lawfully established prior to the effective date of this Chapter or a subsequent chapter thereto, but does not conform to the Intensity Regulations of Section 3.5 or the Design Standards of Article 5 applicable to such use, building, structure, or development of land, including, but not limited to, nonconforming structures, nonconforming signs, nonconforming parking facilities, and nonconforming lighting.

Nonconforming Lot:

A lot that was lawfully created prior to the effective date of this Chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Section 3.5 for the zoning district in which it is located.

Nonconforming Use:

A use of land, buildings, or structures that was lawfully established prior to the effective date of this Chapter or a subsequent amendment thereto, which:

- (a) does not conform to the Use Regulations of Section 3.7 for the zoning district in which it is located; or
- (b) would have required a special use permit pursuant to Section 3.7 if established after the effective date of this Chapter, but does not have a Special Use Permit.

Non-cutoff Light:

A fixture with elements such as shields, reflectors, or reflector panels which direct and cutoff the light at a cutoff angle that exceeds 90 degrees (see definition of "Cutoff Light," above).

Non-point Source Pollution:

Pollution that enters waters mainly as a result of precipitation and subsequent collective runoff from lands that have been disturbed by man's development activities and includes all sources of water pollution which are not required to have a permit in accordance with G.S. 142-215.1(c). Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Normal Rainfall:

The 30-year average rainfall, updated each decade to the most recent 30-year period by the National Climatic Data Center.

Obligate and Facultative Wetland Vegetation:

Species of plants which are known to occur, respectively, more than ninety-nine percent (99%) of the time in wetlands, and more than sixty-seven percent (67%) of the time in wetlands. These species are listed in the National List of Plant Species That Occur in Wetlands: Southeast Region 2, published periodically by the U.S. Fish and Wildlife Service.

Off-Site Facility:

A stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

Open Space:

Land devoted to uses characterized by vegetative cover or water bodies, such as agricultural uses, pastures, meadows, parks, recreational areas, lawns, gardens, cemeteries, ponds, streams and the like.

Outdoor Skateboard Ramp:

A ramp or other similar type of structure used for skateboarding or similar or related purposes which is between four (4) feet and ten (10) feet in height, and between twelve (12) feet and thirty (30) feet in length. Ramps smaller than four (4) feet in height and twelve (12) feet in length are not subject to the regulations in this Chapter. Ramps greater than ten (10) feet in height or thirty (30) feet in length are prohibited, except as a Public Use Facility.

Outparcels:

Outparcels are hereby defined as development or parcels of land generally located at the perimeter boundary of a mixed use development and physically separated from the remainder of the development.

Parking, Off-Street:

Space located outside any street right-of-way or easement and designed to accommodate the parking of motor vehicles.

Park/Ride Terminal:

An off-street parking facility designed or intended to provide peripheral collection and storage of vehicles to accommodate commuter traffic into or out from the Chapel Hill community, including accessory structures such as bus passenger shelters.

Pedestrian and Bicycle Islands:

A refuge within the right-of-way and traffic lanes of a highway or street designed for the protection of passengers or bicyclists from traffic while they are crossing the street or waiting to board transit vehicles.

Perennial Stream:

A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

Perennial Water Body:

A natural or man-made basin that stores surface water permanently at depths sufficient to preclude growth of rooted plants, including lakes, ponds, and similar water features. For the purposes of this Section, the surface waters must be part of a natural drainageway (i.e. connected to a stream by a channel with intermittent or perennial flow). Perennial water bodies shall be those delineated on the Town's Aerial Topographic Maps, subject to field verification.

Performance Guarantee:

A letter of credit or cash escrow posted as security for the completion of subdivision improvements.

Permanent Open Space:

Open space which is legally dedicated as such but does not include easements.

Person:

Any person, firm, partnership, association, corporation, company, or organization of any kind.

Personal Services:

An establishment that primarily provides services generally involving the care of a person or his/her apparel, such as seamstress shops, shoe repair shops, dry cleaning and laundry pickup facilities, and coin-operated laundry and dry cleaning facilities, but not including barber shops and beauty salons.

Place of Assembly:

A place designed to accommodate the assembly of persons attending athletic events, musical performances, dramatic or terpsichorean performances, speeches or ceremonies, motion picture presentations, and other entertainment events, including stadiums, coliseums, athletic centers, theaters, concert halls, night clubs, amphitheaters, and arenas.

Place of Worship:

A structure in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

Planned Development:

Land that is under unified control and planned and developed as a whole in a single development operation or a definitely programmed series of development operations. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is constructed according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, and the like, but also site plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

Planning Director:

The Planning Director of the Town of Chapel Hill, or his or her designee.

Principal Building or Structure:

A building or structure or, where the context so indicates, a group of buildings or structures, in which the primary use of a lot or parcel is conducted.

Principal Structure:

The structure in which the principal use of a property is conducted. This shall include any buildings which are attached to the principal structure by a covered structure.

Principal Use:

The primary or main use of land or structures, as distinguished from a secondary or accessory use.

Professional Engineer:

A person who has been duly registered and licensed as a professional engineer by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. (Source: North Carolina General Statutes Section 89C-3)

Proportions:

The ratios established by length, width and height and may exist as planar or volumetric measurements.

Proposed Development:

The Development requested by an Applicant that includes all buildings and land uses subject to an Application.

Public Cultural Facility:

The use of land, buildings, or structures by a municipal or other governmental agency to provide cultural services directly to the general public, including public libraries and museums.

Public Hazard:

1. Any tree, plant, shrub or vegetation which so overhangs any sidewalk or public street either dedicated or proposed to be dedicated, or which is growing thereon (or adjacent thereto), in such a manner as to obstruct or impair the free and full use of the sidewalk or public street by the public as determined by the Town Manager; or
2. Any tree, plant, shrub or vegetation in the vicinity of utility lines which has the potential to interfere with the provisions of reliable utility service as determined by the Town Manager.

Public Land:

Land owned by the Town of Chapel Hill, or any other governmental entity or agency thereof.

Public Service Facility:

The use of land, buildings, or structures by a public utility, railroad, or governmental agency, including water treatment plants or pumping stations, sewage treatment plants or pumping stations, non-nuclear power plants and substations, telephone exchanges, bus and railroad terminals, and other similar public service structures, but not including land, buildings, or structures devoted solely to the storage and maintenance of equipment and materials.

Public Use Facility:

The use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, social, transit, and recreational services directly to the general public, including police and fire stations, municipal buildings, community centers, public parks, and any other public facility providing the above services, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and not including public cultural facilities or public service facilities.

Publishing and Printing:

An establishment primarily engaged in preparing, publishing, and printing newspapers, periodicals, books, and pamphlets.

Qualified Professional:

Any person employed in a design-related profession such as architecture, landscape architecture, planning, or engineering, with formal training or education in the specified field of practice.

Radio, Television, or Wireless Transmitting and/or Receiving Antenna, Accessory:

An antenna designed for the above-ground transmission and/or reception of airborne radio or television signals, customarily incidental to a permitted principal use, provided that any antenna located on a zoning lot containing a single-family or two-family dwelling shall serve only the needs of the occupants of such dwellings.

Radio, Television, or Wireless Transmitting and/or Receiving Facility:

Any of the following:

- (1) The use of land, buildings, or structures for the above-ground transmission and/or reception of airborne radio or television signals, including all transmitting and receiving towers, dishes and antennas except accessory radio or television transmitting and/or receiving antennas.
- (2) Any staffed or unstaffed facility used for the transmission and/or reception of wireless communications, usually consisting of an antenna or group of antennas, transmission lines, ancillary appurtenances, and equipment enclosures, and may include an antenna-supporting structure. This includes any of the following:
 - (a) **Antenna-Supporting Structure:** Any vertical projection, including a foundation, designed and primarily used to support one (1) or more antennas or which constitutes an antenna itself. This definition includes replacements and broadcast antenna-supporting structures. This definition does not include stealth wireless communications facilities, as defined below, but does include roof-mounted antenna-supporting structures that extend above the rooflines by more than twenty (20) feet, or that have an overall height of greater than fifty (50) feet. Antenna-supporting structures will not be construed to be utility equipment. For purposes of this subsection, an “antenna supporting Structure, broadcast” means an antenna-supporting structure, including replacements, which contains antennas that transmit signals for radio and television communications. For purposes of this subsection, “antenna-supporting structure, replacement” means the construction of an antenna-supporting structure intended to replace an antenna-supporting structure in existence at the time of application.

- (b) Co-located antenna: a situation in which two or more providers place an antenna on a common antenna-supporting structure, or the addition or replacement of antennas on an existing structure. The term co-location includes combined antennas, but does not include roof-mounted or surface-mounted wireless communications facilities, or the placement of any personal wireless service antenna on an amateur radio antenna within a residential district.
- (c) Surface-mounted structure: an antenna that is attached to the surface or façade of a building or structure other than an antenna-supporting structure.
- (d) Roof-mounted antenna: an antenna mounted on the roof of a building that extends above the roofline by twenty (20) feet or less and has an overall height of fifty (50) feet or less. *Roofline* means, in the case of a flat or pitched roof, the uppermost line of the roof of a building; and, in the case of a parapet, the uppermost height of the parapet.

Recreation Facility, Non-Profit:

A non-profit facility providing recreational activities, including private country clubs, golf courses, riding stables, tennis clubs, and athletic fields.

Recharge:

The replenishment of underground water reserves.

Recreation Facility, Commercial:

A private profit-making facility providing recreational activities enclosed within buildings, including commercially operated indoor swimming pools and tennis courts, health clubs, gymnasiums, amusement arcades, bowling alleys, indoor skating rinks, and pool halls.

Recreation Facility, Outdoor Commercial:

A private profit-making facility providing recreational activities outdoors, including commercially operated outdoor swimming pools and tennis courts, outdoor miniature golf, driving ranges, golf courses, and outdoor batting cages.

Recreational Land:

Any land appropriately located space appropriately located and, if necessary, improved as outdoor living space and for aesthetic appeal, including existing natural areas, lawns and other landscaped areas, walkways, paved terraces and sitting areas, outdoor recreational areas, and landscaped portions of street rights-of-way. Such space does not include outdoor space used for motorized vehicles, except for incidental service, maintenance, or emergency actions.

Recreational Space, Improved:

Any Recreational Land, including enclosed floor area, which is appropriately improved for the common active recreational use of residents of multifamily developments and planned developments. For sites that abut or include areas designated as future greenways in the Town's Comprehensive Plan, land dedicated for a public pedestrian and non-motorized vehicle easement along the greenway may be substituted for required improved recreation space.

Redevelopment:

See G.S. Section 160A-503.

Regulatory Flood Plain:

Areas of inundation during the base flood discharge as delineated on the Flood Hazard Boundary Maps and Flood Insurance Study for the Town of Chapel Hill, North Carolina, Orange, Durham, and Chatham Counties, latest revisions, as defined by the Associate Director of the Federal Emergency Management Agency.

Regulatory Floodway:

The channel of a river or other watercourse and the adjacent land areas as delineated on the Flood Hazard Boundary Maps and Flood Insurance Study for the Town of Chapel Hill, North Carolina, Orange, Durham, and Chatham Counties, latest revisions, as defined by the Associate Director of the Federal Emergency Management Agency, that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot above the 100 year flood water surface elevation.

Research Activities:

Research, development, and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering, provided such activities are conducted within entirely enclosed buildings and produce no noise, smoke, glare, vibration, or odor detectable outside the buildings.

Residence Hall:

A building or group of buildings containing in combination ten (10) or more lodging units intended primarily for rental or lease for periods of thirty (30) days or longer, provided, however, that temporary lodging units for guests of regular tenants may be provided, with the number of such units limited to not more than ten percent (10%) of the total number of lodging units.

Residential Support Facility:

A building or group of buildings owned or operated by a nonprofit organization intended to be used solely for temporary occupancy by family members of patients being treated at a local hospital, with occupancy not to exceed forty (40) families.

Riparian Buffer:

A natural or vegetated area adjacent to streams and perennial water bodies through which stormwater flows in a diffuse manner, so that runoff does not become channelized and which provides for the infiltration of runoff and filtering of pollutants. The riparian buffer is measured landward (horizontal distance) from the stream bank on both sides of the stream or from the normal pool elevation of a perennial water body. The riparian buffer shall also “wrap around” the upstream end of the stream origin.

Riverine:

Areas formed by, or resembling a river.

Rooming House:

A building or group of buildings containing in combination three (3) to nine (9) lodging units intended primarily for rental or lease for periods of longer than one week, with or without board. Emergency shelters for homeless persons and residential support facilities, as defined elsewhere in this Chapter, are not included. A Rooming House shall include a single-family dwelling, two-family dwelling including accessory apartment, or a two-family dwelling duplex if used in a manner described in the applicable definition sections so as to constitute a Rooming House.

School, Elementary:

A facility providing a curriculum of elementary academic instruction, including kindergartens, elementary schools, middle schools, and comparable private schools.

School, Secondary:

A facility providing a curriculum of secondary academic instruction, including high schools and comparable private schools.

Service Station/Convenience Store:

An establishment where gasoline and other petroleum products are sold as a principal use of the property. Light maintenance activities such as engine tune-ups, lubrication, and minor repairs may also be provided if incidental to such principal use. Service stations do not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body work are conducted.

Setback, Interior:

The horizontal distance between the interior lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the interior lot line.

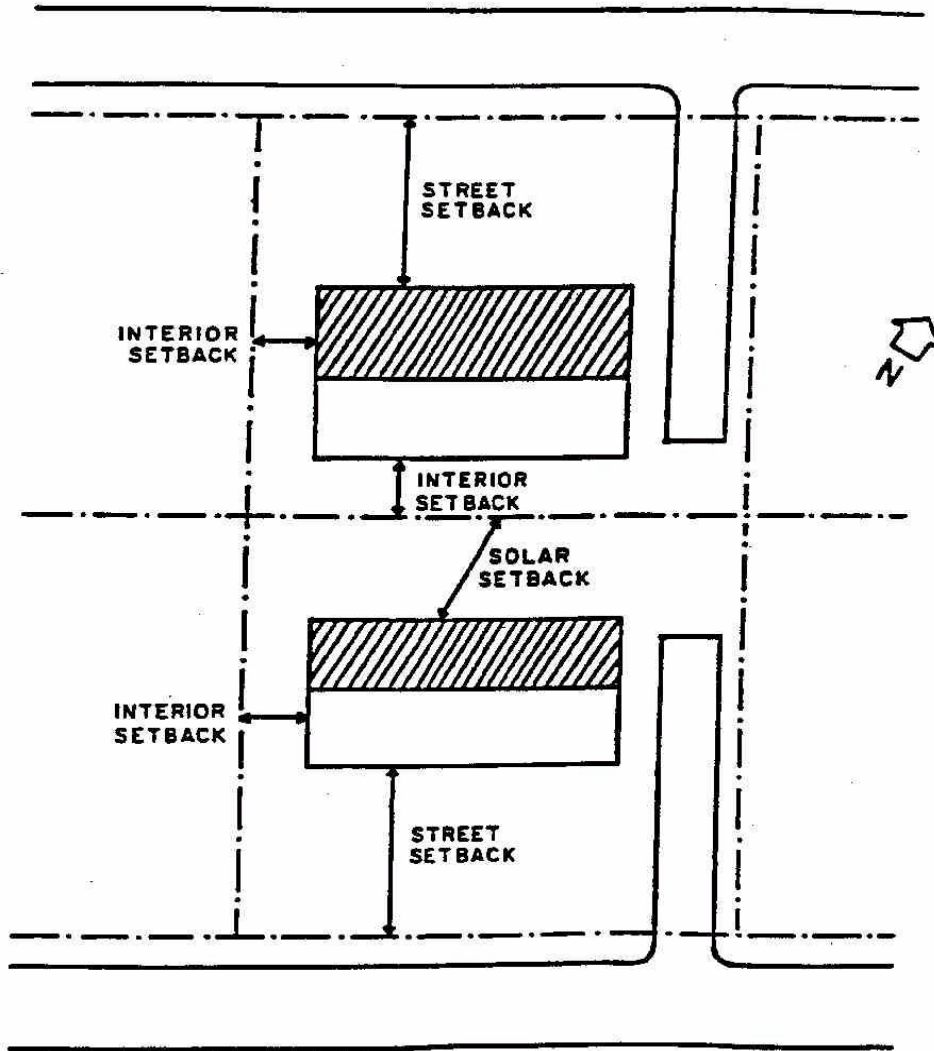
Setback, Solar:

The horizontal distance between the north lot line of a zoning lot and any structure on such zoning lot, measured along the north/south axis in a southerly direction from the north lot line. A north lot line shall be construed to include any portion of a lot's lot line which has an alignment within forty-five degrees of an East/West axis.

Setback, Street:

The horizontal distance between the street lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the street lot line (see Figure 13-4).

SETBACKS



Shelter:

A building or group of buildings owned or operated by a non-profit organization intended to be used solely for temporary occupancy by not more than twenty-five (25) homeless persons, with on-site supervision during all hours of operation, with or without board for the occupants and staff of the shelter.

Sign:

Any device designed to inform or attract the attention of persons not on the premises on which the device is located.

Sign, Cantilevered Ground:

A sign supported in a cantilevered fashion by an upright post.

Sign, Free-Standing:

A sign attached to, erected on, or supported by a structure whose primary function is to support a sign and which is not itself an integral part of a building or other structure and including signs attached to or painted on a motor vehicle if such motor vehicle is located on a site in such a way as to serve as a sign, as defined above.

Sign, Ground:

A free-standing sign attached to a contiguous structural base or planter box, which base or box shall be of the same width as or greater width than the message portion of the sign, and is permanently affixed to the ground. Ground signs do not include free-standing signs supported by poles.

Sign, Projecting:

A sign attached to and supported by a building and extending beyond the building to which it is attached at an angle.

Sign, Wall:

A sign attached to or painted on a wall or building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a facade window.

Sign Plan, Unified:

An overall plan for placement and design of multiple signs for a building or group of buildings on a single zoning lot.

Site Plan Review:

The process whereby the Council or Planning Board reviews plans of a development proposal which is a permitted use to assure that it complies with applicable development regulations and standards.

Site Specific Development Plan:

A Special Use Permit issued by the Council authorizing the development of a zoning lot.

Solid Waste Management Facility:

Solid Waste Management Facility shall be operated by or on behalf of a governmental agency and shall include, but not be limited to, a solid waste transfer facility and a materials recovery facility. A solid waste management facility shall not include the burial of any waste material.

Special Use:

A use of land, buildings, or structure that is identified in this Chapter as a use that because of its inherent nature, extent, and external effects, requires special care in the control of its location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare.

Special Use Permit:

A permit issued by the Council authorizing the development of a zoning lot for a special use or a planned development.

Sports Fields:

An area designed for active recreation, whether publicly or privately owned, including but not limited to baseball/softball diamonds, soccer fields, football fields, golf courses and ranges, tennis courts, racetracks, and swimming pools.

Standard Details:

The document entitled “Town of Chapel Hill Standard Details” and dated September 1997, which document is hereby incorporated by this reference.

Stealth Wireless Communications Facility:

A wireless communications facility, ancillary appurtenance, or equipment enclosure that is not readily identifiable as such, and is designed to be camouflaged and aesthetically compatible with nearby uses. A stealth facility may have a secondary function including, but not limited to, the following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, etc.

Stop Work Order:

An order issued which requires that all construction activity on a site be stopped.

Stormwater Management:

The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

Stormwater Retrofit:

A stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater Runoff:

Flow on the surface of the ground, resulting from precipitation.

Stream:

A body of concentrated flowing water in a natural low area or natural channel on the land surface.

Stream Bank:

The point on a stream’s cross-section defined by the bankfull elevation.

Stream Corridor:

A natural or vegetated area adjacent to watercourses through which stormwater runoff flows in a diffuse manner, so that runoff does not become channelized and that provides for the infiltration of runoff and filtering of pollutants. The stream corridors required by this Section are delineated in Table 3.6.3-2.

Street:

A right-of-way or easement thirty (30) feet or more in width containing a roadway which provides or is used primarily for vehicular circulation.

Street, Private:

A street consisting of a private easement and a privately maintained roadway.

Street, Public:

A street consisting of a publicly dedicated right-of-way and a roadway maintained by the Town of Chapel Hill or the State of North Carolina.

Street Link:

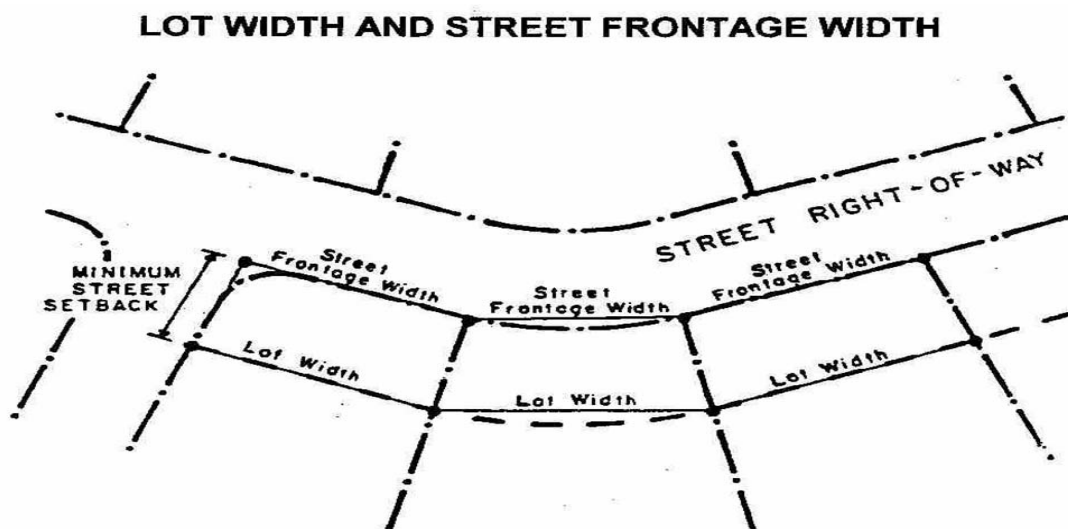
A section of the Street Network, or a Local Street, defined by a Node at each end or at one end.

Street Network:

The Street system within the incorporated areas and Extraterritorial Jurisdictions of the Town that consists of the existing Arterial Streets and Collector Streets as defined herein and as designated in the Capital Improvements Program.

Street Frontage Width:

The horizontal distance measured along a straight line connecting the points at which the street lot line abutting a street intersects with interior lot lines and/or other street lot lines.



Structural Alteration:

Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

Structure:

Anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal and accessory buildings, signs, fences, walls, bridges, monuments, flagpoles, antennas, and transmission poles, towers, and cables.

Structure, Accessory:

A subordinate structure detached from, but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

Structure, Principal:

A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

Substantial Improvement:

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the assessed taxable value of the structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Supply Yard:

A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.

Surface Water:

Any intermittent or perennial stream or modified stream or any perennial water body as defined herein.

Temporary Portable Building:

A building intended for nonresidential use for a limited time period, consisting of one or more modules constructed off the ultimate site of use and transported to that site either on its own wheels or otherwise.

Temporary Portable Building, Construction-Related:

A temporary portable building directly related to the development of a lot and limited in duration to a time period extending from issuance of the initial Zoning Compliance Permit for such development to issuance of the final Certificate of Occupancy for the development.

Tourist Home:

A building or group of buildings containing in combination three (3) to nine (9) lodging units intended for rental or lease primarily to transients for daily or weekly periods with or without board, as distinguished from rooming houses in which occupancy is generally by residents rather than transients. Emergency shelters for homeless persons and residential support facilities, as defined elsewhere in this Chapter, are not included.

Town Council:

The governing body of the Town of Chapel Hill, consisting of a Mayor and eight (8) Council members, as established in the Charter of the Town of Chapel Hill.

Town Limits:

The territory within the boundaries of the Town, as prescribed in North Carolina General Statutes Sections 160A-21 to 160A-22.

Town Manager:

The Town Manager of the Town of Chapel Hill, or his or her designee.

Townhouse Development:

A development of a zoning lot that consists of two (2) or more dwelling units or buildings, each of which is located on its own individual lot, plus land developed and designated for the common use and benefit of the occupants of the townhouse lots, provided an entity is designated to be legally responsible for maintenance and control of the common land areas. The gross land area of the commonly held land shall be not less than ten percent (10%) of the zoning lot's total gross land area. The individual lots within a Townhouse Development shall not be required to meet the lot design standards of [Article 3](#) or the intensity regulations of [Section 3.5](#), provided the zoning lot containing the Townhouse Development meets such standards.

Tract:

An undeveloped parcel of land not previously recorded as a zoning lot.

Traffic Engineer:

An appropriately trained person who specializes in studying vehicular and pedestrian and bicycle traffic conditions.

Transit-Oriented Development:

A Proposed Development, or portion thereof, that is subject to the requirements of a Transit-Oriented Development District ([Section 3.5.4](#) of this Chapter).

Transit Station:

A designated area where passengers may embark or disembark from public transportation.

Transportation Facilities:

Includes: (1) Streets, including Street Links and intersections within the jurisdiction of the Town of Chapel Hill, or Arterial Streets and Collector Streets within the jurisdiction of or the North Carolina Department of Transportation, or its successor agency, that are located within the incorporated boundaries of the Town of Chapel Hill and any Extraterritorial Jurisdictions granted pursuant to Section 160A-360, North Carolina General Statutes, and (2) buses owned and operated by Chapel Hill Transit.

Transportation Plan:

A plan, or any portion thereof, adopted by the Chapel Hill Town Council, establishing goals, objectives, policies, and recommendations designed to manage vehicular, transit, bicycle, and pedestrian transportation access and circulation patterns in the Chapel Hill community. The Transportation Plan is composed of the transportation sections of the Comprehensive Plan, the Thoroughfare Plan, the Street Classification Standards, the Functional Classification of Existing Streets, the Bikeways Plan, the Sidewalk Plan, and any Council-adopted plans for area traffic circulation and parking.

Tree:

A perennial woody plant, single or multiple trunks, with few if any branches on its lower part, which at maturity will obtain a minimum six inch caliper.

Tree - Rare or Specimen:

A tree that meets those qualifications as outlined in Section 5.7.6 of this Chapter.

Trip Distribution:

The geographic distribution of Trip Ends attracted to the Proposed Development, usually expressed as a percentage of the total site trips generated by (and assignable to) major site access corridors Streets located on the Street Network that lie within the Impact Area. [Reference: R. Keller & J. Mehra, Site Impact Traffic Evaluation Handbook (Federal Highway Administration, 1985)]

Trip Ends:

The total of all trips entering plus all trips leaving a specific land use within a specific time period. [Reference: R. Keller & J. Mehra, Site Impact Traffic Evaluation Handbook (Federal Highway Administration, 1985)]

Undeveloped Land:

A zoning lot or a tract on which no residential, commercial, office or industrial activity is taking place.

Urban Services Area:

The urban areas of the Town of Chapel Hill and adjacent areas which are in the process of changing from rural to urban land uses, as designed in Figure 9 of the Comprehensive Plan.

Use:

The specific activity or function for which land, a building, or a structure is designated, arranged, intended, occupied, or maintained.

Use, Accessory:

A use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to, the principal use of the lot or structure.

Use, Principal:

The primary use and chief purpose of a lot or structure.

Variance:

A relaxation of the strict terms of a specific provision of this Chapter authorized by the Board of Adjustment in accord with the provisions of Section 4.6 of this Chapter.

Vertical Mixed Use Building:

A Building in which Commercial Uses are located on the first floor; Commercial, Residential, or Office Uses are located on the second to fourth floors; and Residential Uses are located on any floors above the fourth floors. A Building must include both (1) Commercial and/or Office Uses, and (2) Residential Uses, in order to be considered a Vertical Mixed Use Building.

Veterinary Hospital or Clinic:

An establishment used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals in need of medical or surgical attention.

Volume (Traffic):

The number of vehicles to pass a predetermined location during a specified period of time.

Water and Wastewater Treatment Plant:

The use of land, buildings, or structures by a public utility or governmental agency to provide sanitary treatment of community water supplies and wastewater discharges.

Watercourse:

Any natural or man-made conveyance of concentrated surface flow including: (1) any area of a perennial stream or regulatory flood plain which is inundated during the base flood discharge, (2) any intermittent or perennial stream, (3) any ephemeral stream or ditch that frequently transports stormflow, or (4) any perennial water body.

Wetted Perimeter:

The line of intersection between water and any other part of a stream's cross section.

Wireless Communications:

Antenna means any apparatus, or group of apparatus, designed for the transmitting and/or receiving of electromagnetic waves that includes, but is not limited to, telephonic, radio or television communications. Antennas include omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multi or single bay (FM & TV), yagie, or parabolic (dish) antennas, but do not include satellite earth stations.

Woodlands:

Land which is undeveloped except for roads and utilities, and contains significant stands of native trees.

Zoning Atlas:

See Section 3.2 of this Ordinance.

Zoning Compliance Permit:

A permit issued by the Town Manager authorizing the recipient to make use of property in accord with the requirements of this Chapter.

Zoning Lot:

A legally subdivided lot (not a tract) shown on a legally recorded plat or deed, or a combination of such legally subdivided and recorded adjacent lots.

NORTHSIDE
NEIGHBORHOOD CONSERVATION DISTRICT
PLAN

C D -1

Adopted by the Chapel Hill Town Council

February 23, 2004

ACKNOWLEDGEMENTS

This Northside Neighborhood Conservation District Plan is based on the work of a Committee appointed by the Town Council in the Spring of 2003. The Committee met over the summer and Fall of 2003, and produced a set of recommendations to help preserve the character and integrity of the Northside Neighborhood.

The Council appointed the following Town residents to the Northside Neighborhood Conservation District Advisory Committee, and is grateful for their substantial and valuable contributions to the well-being of this neighborhood:

Northside Neighborhood Association

- Ed Caldwell
- R.D. Smith

Northside Neighborhood Watch

- Helen Galbreth
- Estelle Mabry

Sykes Street Steering Committee

- Delores Bailey
- Tom Tucker

Investors / Developers

- Mark Patmore
- Richard Perry
- Matthew Robbins

Northside Residents

- Jeff Caiola
- Jane Farrar
- Esphur Foster
- Mae McClendon
- Velma Perry
- Sydalg Severe

At Large Member

- Josh Gurlitz

Planning Board Representatives

- Sally Greene*
- Ruby Sinreich
- Tim Dempsey (alternate)

UNC Representatives

- Linda Convissor
- Melissa Exum (Liaison)
- Michael McSwain (Student Liaison)

* During the planning process Ms. Greene was a member of the Planning Board. Ms. Greene was a member of the Council when the Neighborhood Conservation District was adopted on February 23, 2004.

SUMMARY

This Northside Neighborhood Conservation District Plan has been prepared and adopted in accordance with Section 3.6.5 in Chapel Hill’s Land Use Management Ordinance, and has been incorporated into the Land Use Management Ordinance by reference.

The purpose of a Neighborhood Conservation District is to establish special regulations especially designed for and intended to help preserve the character of a particular, older residential neighborhood. This Plan contains the following special regulations for the Northside Neighborhood Conservation District (CD-1):

Regulation	Standard for Northside *
Maximum Primary Building Height (Other than Town Center-2 and OI-1 Districts)	20 feet
Maximum Primary Building Height (Office/Institutional-1)	29 feet
Maximum Primary Building Height (Town Center-2)	40 feet; 30 feet if adjacent to residential zone
Maximum Secondary Building Height (residential zones and Office/Institutional-1)	35 feet
Maximum Secondary Building Height (Town Center-2)	50 feet
Duplexes (Dwelling, Two-family - - Duplex)	Not Permitted
Maximum Size for Single-Family Dwelling (or Single-Family with Accessory Apartment)	2,000 square feet, variance provision maximum of 2,500 square feet
Maximum Floor Area Ratio for Single-Family Dwelling (or Single-Family with Accessory Apartment)	.25
Bathroom to Bedroom Ratio	A dwelling with more than 2 bedrooms, and a bathroom to bedroom ratio of 1.0 or greater, shall be classified as a Rooming House unless the dwelling is occupied by persons related by blood, adoption, marriage, or domestic partnership, with not more than two unrelated persons.
Zoning Compliance Permit Notification	Owners within 1,000 feet must be notified if increase in floor area is proposed or if garages are proposed

* For the Northside Neighborhood Conservation District, these standards replace/supersede general, otherwise applicable provisions in the Land Use Management Ordinance where such standards applicable to the property differ. For standards that are not specifically identified in this Plan, provisions of the underlying zoning district for a particular parcel shall apply.

VISION STATEMENT

The following Vision Statement expresses the objectives and purpose of this Plan: To ensure that the Northside neighborhood will continue to be just that, a neighborhood.

- Preserve the history, charm and composition of a proud and historic community.
- Promote and protect the diversity and family character of the neighborhood.
- Protect the family atmosphere and ensure that all future development is comparable with the majority of the neighborhood in scale, function, and appearance.
- As properties change ownership, make certain that families seeking homeownership have opportunities to buy a home and can afford to live in this community.
- Promote more affordable homeownership opportunities for low and moderate income families and households.
- Nurture an environment that promotes community interaction and fosters a safe and proud neighborhood.

These are the goals to achieve through the development of the Northside Neighborhood Conservation District.

BOUNDARIES

The boundaries of the Northside Neighborhood Conservation District are the Tanyard Branch trail to the north, North Columbia Street to the east, West Rosemary Street to the south, and the Carrboro city limit to the west. Please see Attachment 1 for a map of the District boundaries. The boundaries shall be indicated on the official Zoning Atlas which accompanies the Land Use Management Ordinance.

SPECIAL DESIGN STANDARDS TO APPLY TO DEVELOPMENT IN THE NORTHSIDE CONSERVATION DISTRICT

The following Design Standards shall apply to all development within the Northside Conservation District, and are incorporated into Chapel Hill's Land Use Management Ordinance by reference. No application for development shall be approved that does not comply with these standards. For the Northside Neighborhood Conservation District, these standards replace/supersede general provisions in the Land Use Management Ordinance where such standards differ. For standards that are not specifically identified in this Plan, provisions of the underlying zoning district for a particular parcel shall apply.

1. Maximum Building Height, Other than Town Center-2 District and Office/Institutional – 1 Districts (primary): 20 feet
2. Maximum Office/Institutional -1 Building Height (primary): 29 feet
3. Maximum Town Center-2 Building Height (primary): 40 feet (except for areas that abut land zoned R-2, R-3, or R-4; in such areas, the maximum primary height limit shall be 30 feet)
4. Maximum Building Height, Other than Town Center-2 District (secondary): 35 feet
5. Maximum Town Center-2 Building Height (secondary): 50 feet
6. Duplexes: Two-family duplex-type dwellings (defined in the Land Use Management Ordinance as “Dwelling, Two-family - - Duplex” are not permitted in the Northside Neighborhood Conservation District.
7. Maximum House Size (single-family or single-family with accessory apartment): 2,000 square feet; 2,500 square feet if variance is obtained from the Chapel Hill Board of Adjustment, based on the required findings outlined in Section 4.12.2 of the Land Use Management Ordinance.
8. Maximum Floor Area Ratio (single family, single family with accessory apartment): .25
9. Bathroom to Bedroom Ratio: A dwelling with more than 2 bedrooms, and a bathroom to bedroom ratio of 1.0 or greater, shall be classified as a rooming house unless the dwelling is occupied by persons related by blood, adoption, marriage, or domestic partnership, with not more than two unrelated persons.
10. Zoning Compliance Permit Notification: Owners within 1,000 feet of a property for which a Zoning Compliance Permit application is submitted must be notified of the application if an increase in floor area is proposed or if the addition of a garage is proposed.

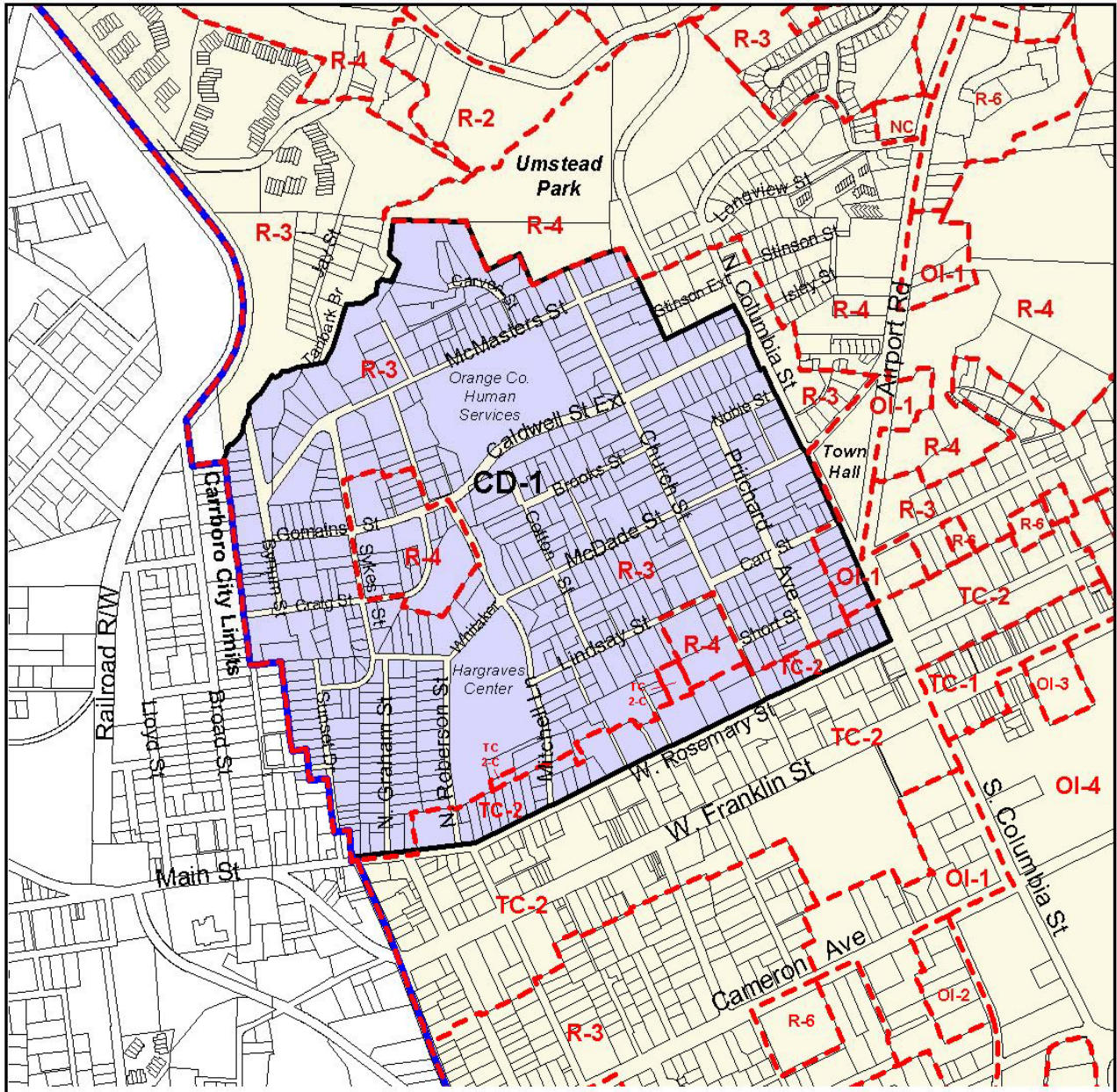
DESIGN GUIDELINES

A set of Design Guidelines for development in the Northside Neighborhood Conservation District shall be adopted by the Town Council. The Town Manager shall encourage applicants proposing development in the Northside neighborhood to design such development in accordance with the adopted guidelines to the extent that it is feasible to do so. The guidelines shall be adopted as an addendum to Chapel Hill’s existing document, “Design Guidelines,” which is a component of Chapel Hill’s Comprehensive Plan. The guidelines shall become part of the Comprehensive Plan, but not part of the Land Use Management Ordinance.

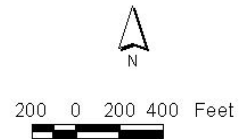
ATTACHMENT

1. Map of Neighborhood Conservation District Boundaries

Northside Neighborhood Conservation District
 Showing Area of Zoning Overlay
 Adopted February 23, 2004



	Northside Conservation District: Area of Zoning Overlay: Conservation District 1 (CD-1)
	Chapel Hill City Limits
	Existing Chapel Hill Zoning



GIS Map prepared by
 Chapel Hill Planning

February 23, 2004

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