

SUMMARY OF PLANNING BOARD ACTION

RESOLUTION REGARDING A TEXT AMENDMENT TO THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE AND CONSISTENCY WITH THE COMPREHENSIVE PLAN

Subject: Ephesus Church Road/Fordham Focus Area Rezoning: Consistency with the Comprehensive Plan

Meeting Date: February 18, 2014

Recommendation: Jason Baker moved and Kimberly Brewer seconded a motion that, if the Council addresses all of the concerns expressed in the Planning Board's recommendation on Form Base Regulations, the Council finds that the proposed Zoning Atlas Amendment, to rezone the Ephesus Road/Fordham Focus Area, to be reasonable and consistent with the Town's Comprehensive Plan.

Vote: 7-3

Ayes: John Ager, Jason Baker (Vice Chair), Neal Bench (Chair), Kimberly Brewer, Suzanne Haff, Melissa McCullough, Andrea Rohrbacher.

Nays: Deborah Fulghieri, Amy Ryan, Del Snow

Board members voting in opposition stated that the proposed rezoning and form base ordinance is not consistent with the 2020 Comprehensive Plan or the Ephesus Road/Fordham Small Area Plan. A member voting in opposition also stated a desire to review and endorse the final details of a revised form base code ordinance before determining that the proposed rezoning is consistent with the Comprehensive Plan.

Prepared by: Neal Bench, Chair, Chapel Hill Planning Board
Gene Poveromo, Staff

SUMMARY OF PLANNING BOARD ACTION

RESOLUTION REGARDING A TEXT AMENDMENT TO THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE REGARDING FORM DISTRICT REGULATIONS

Subject: Form District Regulation for the Ephesus Church/Fordham Road Area

Meeting Date: February 18, 2014

Recommendation: Kimberly Brewer moved, Amy Ryan offered a friendly amendment and Suzanne Haff seconded a motion to forward the following recommendation to the Town Council:

It is the feeling of the Planning Board, that while Form Base Code is appropriate for the area, the current code document is not yet developed sufficiently to merit adoption. We think that only if the following concerns are addressed will the form-based code provide an acceptable guide to redevelopment in the Ephesus-Fordham area and achieve the greater community good. Therefore, we recommend that these concerns be addressed and the draft document revised accordingly before it is adopted into LUMO.

A. The Planning Board recommends that the Code be amended to address the following concerns:

1. With a goal to avoid monolithic 7 story development throughout the area, the amended code should modulate development throughout the district by implementing one or both of the following:
 - a. Rezoning some of the WR-7 districts to WR-5 and some of the WX-7 districts to WX-5; and
 - b. Creating a maximum % of lot area, per lot, that can be developed to maximum building height.

[Staff Response: We believe that monolithic 7-story development throughout the Ephesus Church Road/Fordham Boulevard planning area represents an unlikely development scenario. Various impediments to development make it unlikely that some lots will be able to redevelop to maximum intensity. For example, properties such as Eastgate Shopping Center are challenged by the need to flood-proof redevelopment that occurs in the regulatory floodplain. Other sites, such as Rams Plaza, are bound by long-term lease agreements that make maximal redevelopment improbable. It is also important to note that, unlike past practices in which an applicant presents development proposals that include the maximum build-out scenario, we expect the development community to respond to the new code with more realistic development applications.]

Although we have previously presented an option to the Council that would reduce by-right height allowance to 5 stories while providing for a 2-story density bonus, we share the Council's expressed concerns that the incentives will not be used.]

2. Require a Special Use Permit for Fuel Sale uses.

[Staff Response: We agree that additional protections are necessary for fuel sales. Accordingly, we have previously modified the proposed regulations to require that fuel sales meet design standards comparable to those found in the current Land Use Management Ordinance for Special Use Permits.]

3. Enhance walkability and connectivity in the district by requiring non-vehicular “pass-throughs” for pedestrians and cyclists.

[Staff Response: We agree with the importance of enhancing walkability and connectivity in the planning area where possible. Street frontage requirements have been crafted to create a welcoming and comfortable environment for pedestrians to enhance walkability. We note that the proposed regulations do not preclude non-vehicular alleys from being constructed.]

4. To avoid a sea of large parking lots along Fordham Blvd. change “no frontage” and “unlimited parking” standards and limit surface parking areas between building and street frontage; or require more extensive buffering or screening between parking areas and the street.

[Staff Response: Streets designated as having “No frontage” requirements are arterial roadways. Given the large width of the existing rights-of-way along Fordham Boulevard, we believe that opportunities for locating surface parking areas close to the travel lanes will be limited. Also, the Community Design Commission will need to approve proposed building design along “No Frontage” streets, which presents an opportunity for enhancing the aesthetic character of the district.]

5. Incorporate some public review in the development approval process such as:
 - a. Developing neighborhood outreach plans for proposed projects. The outreach should include, but not be limited to, notification via the local newspaper, town web page and 1,000 foot post card notification.

[Staff Response: We are recommending a policy where property owners within 100 feet of an application for Certificate of Appropriateness be notified by postcard of the upcoming hearing before the Community Design Commission. This notification proposal is consistent with requirements for the Town’s Historic District Commission, which issues Certificates of Appropriateness (CoA) in the town’s local historic districts. Additionally, we are recommending a policy that signs be conspicuously placed on site so that tenants and the public may be aware of an upcoming hearing before the Community Design Commission.]

- b. Creating a mechanism for integrating public feedback during the review process

[Staff Response: Comment noted. Integrating public feedback during the review process is important. We note that during the ongoing review process for the proposed Ephesus Church Road/Fordham Boulevard form district regulations, public feedback has been

critical in refining the staff's recommendations. Additionally, we have integrated a process whereby the public will have the opportunity to comment on the design features of proposed redevelopments during Community Design Commission review.]

- c. Require Planning Board review and approval before permitting rather than Community Design Commission approval

[Staff Response: The Special Appearance District legislation granted to the Town requires appearance commission approval. The Community Design Commission functions as the Town's appearance commission.]

- d. Variance applications

Staff Response: As it currently does, the Town's Board of Adjustment would review any applications for variances. Applications seeking a variance include a requirement for notifying all property owners within 1,000 feet of the proposed variance.

- 6. Incorporate into an amended code Resource Conservation District regulations, tree planting caliper standards, green building and energy efficiency standards, and steep slopes regulations and other environmental regulation from the Land Use Management Ordinances.

[Staff Response: We agree that environmental stewardship, including improving water quality, is an important goal for the Town. We are invested in preserving our environment and improving water quality in and around Chapel Hill and do believe the higher level of water quality treatment proposed in the district, the State riparian buffer and watershed protection rules, as well as the federally mandated floodplain development restricts applied through the Town's Flood Damage Prevention Ordinance management will still provide many layers of protection that help to maintain protective redevelopment conditions.

Also, tree caliper standards are already included in the existing design manual, which would still apply. With respect to energy efficiency, North Carolina State law does not permit municipalities to adopt local building codes that are more stringent than the State; however, energy efficiency and green building practices can be incentivized through various means. We are working with the Council to identify options for incentivizing energy efficiency.]

- 7. Perform an effectiveness evaluation of the form base code within three years of adoption.

[Staff Response: We agree that periodic monitoring of form-based performance in the Ephesus Church Road/Fordham Boulevard planning area would be beneficial to the community. We have previously recommended to the Council that the establishment of this package of improvements include the provision of regular reports to the Council on the progress of the associated work. Accordingly, our recommendation has been that reports be provided to the Council over the course of four years, with biannual reports

being delivered during the first two years and annual reports during the subsequent two years.]

8. The northern part of this area is a gateway to town. Amend the codes in order to specify, in more detail, the character the community would like to see in the area around the Fordham Blvd./Franklin St. roadway split.

[Staff Response: We note that the Ephesus Church-Fordham Small Area, which was established during a community process and forms the basis for the conceptual framework and subsequent renewal effort, describes the vision for planning area, The vision reads: "The Ephesus Church/Fordham shopping area will be an integral part of an active and vivacious neighborhood where residents can walk for basic services and utilize public transit to other destinations. The premise is to see this area redeveloped, re-connected, more accessible and more supportive of transit and the surrounding neighborhoods."]

9. Incorporate within the Form Base Code District use of multi-functional low impact stormwater management devices. Also provide amenities, such as benches, around the proposed regional BMP.

[Staff Response: We agree with wanting to encourage the use of stormwater low impact development (LID) practices. We are proposing more stringent stormwater treatment requirements than is currently required in order to help address existing water quality and water quantity issues. Redevelopment that disturbs more than ½ acre, cumulatively, must meet the Jordan nutrient reduction requirements even if there is not an increase in impervious surface as a result of redevelopment. Many of the techniques that address nutrient reductions are LID practices and also provide water some quantity reductions.

At this time we are no longer considering the construction of a regional BMP for the Ephesus/Fordham Study Area downstream of the shops at Eastgate Shopping Center. However, the area may potentially serve as a location for enhanced constructed wetlands or green space at some time in the future.

Riparian buffer, floodplain and wetland regulations encumber the area behind Eastgate. The ability to add structures or impervious surface to this area would be very limited. The area is also very low and prone to repeated flooding. Because of these conditions it is not suitable as a site for active or intense recreation. Another consideration is that if it is developed as a park or trail site maintenance costs will likely be very high due to the effects of flooding. If the Council decides to accept the property and create some form of recreation facility in this area it might be possible to successfully permit trails and benches. We note that the recently adopted Parks and Greenways Master Plans do not include any new park or trail facilities in the area behind Eastgate Shopping Center.

We believe nothing in the Form Base Code would prevent the development of a park or enhanced open space facility.]

10. We are concerned that some of the new signage allows for signs that are more intrusive (for example light, size) than current LUMO regulations allow. We recommend

that the Form District be held to current LUMO standards. If changing conditions/technologies warrant updating Chapel Hill's sign ordinance that should be done in a separate process for the town as a whole.

[Staff Response: The signage standards within the proposed form district regulations have been designed specifically for the Ephesus Church Road/Fordham Boulevard planning area and intended to balance placement throughout the district. Because the proposed sign standards are also intended to be compatible with the recommended form and account for newer sign types and technologies, we are recommending that the Council approve the suggested signage criteria. It is also important to note that we are addressing signage in first phase of the Land Use Management Ordinance reorganization.]

11. Provide coding that limits/controls fast food and drive-through development.

[Staff Response: We agree that additional protections are necessary for drive-up windows. Accordingly, we have previously modified the proposed regulations to require that any uses incorporating drive-up windows meet design standards comparable to those found in the current Land Use Management Ordinance for Special Use Permits.]

B. Below is a list of supplemental concerns the Board believes are not addressed in the proposed Form Base Code. The implementation of the redevelopment of the Ephesus/Fordham district should address these matters. The Board would like the Council to consider the following prior to enacting the Form Base Code and rezoning the Ephesus Road/Fordham Blvd. area.

12. a. Daylighting of Booker Creek;
b. Continuing the greenway along Creek.

[Staff Response: Stream daylighting with added riparian buffers and floodplain restoration has the potential to improve water quality and provide flood mitigation, as well as provide aesthetic and community interaction benefits. The draft ordinance does not preclude, or otherwise impede the daylighting of Booker Creek.

However, there are many constraints to daylighting of urbanized streams. Many of those constraints are present in the area of the Shops at Eastgate. The constraints include finding a funding source to address the cost of land acquisition (daylighting would require demolition of a large portion of the Shops at Eastgate parking area and some of the buildings); excavation and construction costs (including the possible construction of a bridge); as well as addressing utility and traffic conflicts.]

13. Improved safe crossing or passage of Franklin St. and Fordham Blvd. in conjunction with the Booker Creek Trail and other pedestrian crossings in the area.

[Staff Response: The safe crossing of major roadways at greenways and sidewalks is an important goal the framework plan. The draft Chapel Hill Bicycle Plan provides guidance for improving bicycle and pedestrian crossings. As the design process

continues, we will develop detailed plans for providing improved bicycle and pedestrian crossings.]

14. Given that the code allow for a 90% payment-in-lieu for open space requirements, the collected recreational payments-in-lieu fees should be used to develop and implement a comprehensive connected green open space plan within the district.

[Staff Response: We believe that the town should try to secure green areas within the district if possible. However, creating new connected green spaces within the Ephesus/Fordham Study area would likely be very difficult for three main reasons. First, it may not be possible to find property owners willing to sell parcels suitable for development for open space or park purposes. It appears that most property owners will likely use all of their available land for redevelopment purposes. Second, even if there were willing sellers, the likelihood that we could buy the exact parcels needed to create a meaningful interconnected open space system within this highly urban area seems remote. Finally, land values are so high in the district that even with all payments in lieu combined it is unlikely that we would have the financial ability to purchase meaningful tracts of open space. This goal might be possible if the area were developed to a more suburban density rather than the urban model currently proposed. Despite these issues there may be opportunities to purchase tracts of open space. If they do arise the Town should be prepared to pursue them. However, we believe that the Town should maintain the flexibility to use payments in lieu to purchase property or enhance open space or park areas outside of the district, but close enough to serve the future residents of the area as is required by State law.]

15. Provide a detailed financial review of the Ephesus-Fordham renewal, in order to verify net positive effect to town finances. Review shall also include a risk analysis of potential cost of capital improvements and cost of service being born by taxpayers

[Staff Response: A detailed financial review can be found attached to the April 17, 2014 Land Use Management Ordinance Text Amendment memorandum.]

16. The current code does not include any mechanism to address cumulative traffic impacts. Moreover, the current code has no mechanism to require mitigation or deny permits for developments that are shown to have negative traffic impacts. Implement an evaluation and approval process that would prohibit major projects that do not adequately mitigate associated traffic impacts.

[Staff Response: Staff addressed cumulative traffic impacts in the Ephesus Church-Fordham Small Area Plan and Traffic Analysis approved by the Town Council in June of 2011. We made projections for growth and added those numbers to our traffic impact assessment (TIA) to create a future model for the roads and traffic. All of the planned improvements are being configured to accommodate the projected growth of the district. Additionally, we have committed to North Carolina Department of Transportation to complete an update TIA in the fall of 2016 or spring of 2017, based on what had been built. If we reach market growth projections for any of the categories of market areas, we

would also complete an amended TIA to see if we are getting the results we are looking for level of service.

The intent of this district is self-fund traffic improvements and we project that the improvements slated to be built will either maintain or improve the level of service post build-out of the district.]

17. Prior to enacting the rezoning of the Ephesus Church/Fordham Blvd district, the Council should gather additional information on the following topics: stormwater regulation/stormwater plan, an affordability housing plan (including the DHIC grant or other grants/funding that could be secured if the DHIC grant is not awarded), the school board algorithm report and district wide open space plan.

[Staff Response: We agree that a holistic and well-balanced approach to planning is important for the Ephesus Church Road/Fordham Boulevard planning area. As a package of interrelated actions, we have collaborated with the Council to refine the renewal to improve our approach to stormwater management, affordable housing, and other community interests. We also note that while staff has no purview over schools, the Assistant Superintendent presented the Schools Adequate Public Facilities Ordinance annual report at the Council's April 9, 2014 work session.]

18. Provide at least one illustration of maximum build-out in public presentations of the area.

[Staff Response: At the March 24, 2014, staff presented a series of hypothetical street frontage cross sections with building massing ranging from five to seven stories. We note that achieving "maximum build-out" is unlikely given various environmental, topographical, dimensional, and financial characteristics of lots throughout the Ephesus Church Road/Fordham Boulevard planning area.]

Vote: 10-0

Ayes: John Ager, Jason Baker (Vice Chair), Neal Bench (Chair), Kimberly Brewer, Deborah Fulghieri, Suzanne Haff, Melissa McCullough, Andrea Rohrbacher, Amy Ryan, Del Snow.

Nays: None

Prepared by: Neal Bench, Chair, Chapel Hill Planning Board, Gene Poveromo, Staff

MEMORANDUM

TO: Mayor and Town Council

FROM: Matt Witsil, Chair, Stormwater Management Utility Advisory Board

CC: Stormwater Management Utility Advisory Board
Jay Gibson, Town Engineer
Mike Taylor, Engineer III
Sue Burke, Stormwater Engineer
Chris Jensen, Stormwater Engineer

SUBJECT: Recommendations for Stormwater Management and Form-Based Code in the Ephesus Church/Fordham District

DATE: March 27, 2014

Background: The Stormwater Management Utility Advisory Board (the “Board”) met on Tuesday, March 25, 2014. After a discussion of the presentation by Town Stormwater Staff that was made at the Town Council Business Meeting on March 24, 2014, the Board has made the following recommendations to the Town Council for consideration.

Recommendations:

1. The Board supports the application of LUMO Section 5.4 to parcels covered by the Form-Based Code.

[Staff Response: This is in agreement with the current Staff plan.]

2. The Board supports the inclusion of Jordan nutrient reduction requirements in the Form-Based Code for site redevelopments that do not increase impervious area. The Board believes that the application of these performance criteria to the redevelopment sites will result in the construction of low impact development measures that improve water quality.

[Staff Response: This is also in agreement with the current Staff plan.]

3. The Board recommends that the Booker Creek sub-watershed studies, including flooding mitigation, be prioritized in order to address citizen concerns. The Board also recommends that funding for these studies be approved as part of the FY15 Stormwater budget.

[Staff Response: The Council has an opportunity to consider this recommendation during the April 21, 2014 public hearing on the stormwater master plan.]

4. The Board supports the recommendations of the Greenways Commission and the Planning Board to consider daylighting of Booker Creek as part of the long-range plans for the District.

[Staff Response: Comment noted. More information on this topic can be found in the staff's response to the Planning Board comments.]

5. The Board recommends that stormwater features be allowed in all setbacks of buildings, including front setbacks.

[Staff Response: The current draft of the Form-Based Code does not allow stormwater features in front setbacks.]

Voting in favor: Terry Crook, Sally Hoyt, Julie McLintock, George Retchle, Alan Rimer, Ron Wells, Matt Witsil. **Voting against:** None. **Absent (excused):** Pam Herndon, George Sparling

SUMMARY OF BICYCLE AND PEDESTRIAN ADVISORY BOARD ACTION

Subject: Ephesus Fordham Study – Elliott Road Extension, Street Cross-section

Meeting Date: March 25, 2014

Recommendation: At the March 25, 2014 meeting, the Bicycle and Pedestrian Advisory Board received the attached presentation regarding the Ephesus Fordham Study - Elliott Road Extension, street cross-section from a Board member. The Board unanimously supported the proposal.

[Staff Response: We are evaluating suggestions from the Bicycle and Pedestrian Advisory Board for modifications to the design of the Elliott Road Extension.]

Board members: R. Dammers (Chair), K. Billy, J. Charles, G. Green, S. McIntee, J. Simmons, T. White

-Attachment-

[Ephesus Fordham Study - Elliott Road Extension, Powerpoint Presentation](#)¹

¹ <http://www.townofchapelhill.org/Modules/ShowDocument.aspx?documentid=22692>

MEMORANDUM

TO: Mayor and Town Council

FROM: Greenways Commission
Christine S. Berndt, Chair

SUBJECT: Additional Recommendations Related to the Preliminary Form Code for the
Ephesus/Fordham Small Area Plan

DATE: February 26, 2014

At its meeting on February 26, 2014, the Greenways Commission voted unanimously (5-0) to forward the following additional recommendations to the Council. (We also made recommendations to you in our memorandum of February 5, 2014.)

1. Recommend that the Code Section 3.11.2.1.B, District Intent, be amended per a suggestion from Council Member Ed Harrison to add a reference that the Form District is also intended to implement the 2013 adopted Greenways Master Plan and Parks and the Recreation Master Plan components for the area.

[Staff Response: The revised draft of the regulations includes language that addresses situations where land overlaps a portion of a proposed greenway shown on the Town's adopted Greenways Master Plan.]

2. Request that Council direct that the Stormwater Plan in preparation include consideration of the option of daylighting Booker Creek as part of a long-term redevelopment strategy for the area. This option would reduce impervious surface, improve water quality, provide additional open space/green buffers, and be an attractive economic stimulus/focal point for the area.

[Staff Response: We believe that safer crossings of these major roads should be accomplished at some point in the future. The Greenways Master Plan suggests underpasses as possible long term solutions. However, underpasses of major roads are very expensive and must likely wait for a future source of funding. In the near term a safe at-grade crossing of the Booker Creek Trail across Fordham Boulevard must be part of the design of the extension of Elliott Drive to the east of Fordham Boulevard. We also believe that a better solution for the at-grade crossing of Franklin Street may be possible.]

3. The Commission supports the Planning Board recommendations of February 18, 2014.

[Staff Response: Comment noted. Please see responses to the Planning Board recommendations attached to this memorandum.]

Present: Christine S. Berndt (Chair), David Tuttle (Vice Chair), Joan Guilkey, William Kaiser, and Robert Myers **Absent:** Christopher Paul **A quorum was present.**

MEMORANDUM

TO: Mayor and Town Council

FROM: Greenways Commission
Christine S. Berndt, Chair

SUBJECT: Recommendations Related to the Preliminary Form Code for the
Ephesus/Fordham Small Area Plan

DATE: February 5, 2014

At its meeting on February 5, 2014, the Greenways Commission voted unanimously (4-0) to forward the following recommendations to the Council.

The Commission recommends that the following be incorporated into the proposed Code:

1) Active recreation/parks/greenway/open space requirements. As currently proposed there are no requirements for developers to provide any active recreation or greenways despite the potential to add significant numbers of new residents to the community.

[Staff Response: The draft ordinance requires every developer of a residential project to provide a combination of Recreation Space (active recreation) and a payment in lieu of Recreation Space to the Town. The one greenway segment identified in the Town's Master Greenways Plan consists of a short section of the Lower Booker Creek Trail across and downstream of Fordham Boulevard. This section should be addressed by the construction of the Elliott Road extension.]

2) The 2013 Greenways Master Plan elements relative to the Ephesus Fordham area, including daylighting Booker Creek if the area is redeveloped; and safe crossings of East Franklin Street and Fordham Boulevard. The Plan calls for considering pedestrian/bicycle underpasses at these locations.

The Commission will continue to participate in the Code and bond planning process over the next months, and appreciates the opportunity for input.

[Staff Response: Daylighting Booker Creek is an exciting concept that could have many benefits. Stream daylighting with added riparian buffers and floodplain restoration has the potential to improve water quality and provide flood mitigation, as well as provide aesthetic and community interaction benefits. However, this approach would likely require a substantial investment from both the property owner and the Town. We believe nothing in the Form Base Code would prevent such a cooperative venture in the future. The Town could initiate a conversation concerning daylighting the creek in the event that the owners of Eastgate Shopping Center decide to redevelop the property.]