



## TOWN OF CARRBORO

NORTH CAROLINA

### TRANSMITTAL

### PLANNING DEPARTMENT

**DELIVERED VIA:** ☒ *HAND* ☐ *MAIL* ☒ *FAX* ☐ *EMAIL*

**To:** Marie Parker, Interim Town Manager

**From:** Tina Moon, Planning and Transportation Administrator

**Date:** February 9, 2024

**Subject:** Request for Map Amendment to R-2-CZ for 1307 West Main Street and Associated Text Amendment

### **PROJECT DESCRIPTION/BACKGROUND**

The Town has received a petition from J. Allen Knight and Erik M. Lensch, owners of Tempo Investco, LLC, to rezone the property at 1307 West Main Street from B-3 (Neighborhood Business, 7,500 square feet per dwelling unit) to R-2-CZ (Residential, Conditional, 2,000 square feet per dwelling unit) for the purpose of developing a multi-family residential project. The proposal involves the construction of a five-story building, approximately 48,000 sq.ft. in size, and containing of a combination of 1-bedroom, 2-bedroom and 3-bedroom units along with common areas.

The applicants have also requested a text amendment to allow the maximum building height in the R-2-CZ district to be increased from 50 feet to 65 feet, to accommodate the fifth story. A draft text amendment has been prepared. If adopted the Town Council could, as part of a SUP-A allow the maximum building height to be increased from 50 to 65 feet, the property to be developed at a higher level of residential density with up to 20-percent of the building's gross floor area designated for non-residential uses not otherwise permissible in the R-2-CZ district, if the proposed development contains site and building elements that will create a more vibrant and successful community and provide essential public infrastructure, such as affordable housing. Formal consideration of the draft text amendment is part of a separate agenda item.

Advisory boards received a presentation on the development proposal as part of a courtesy concept plan review in June 2021, and at that time, the project included a commercial component on the ground floor. The design program has since been revised and the commercial component removed. During the Town Council agenda item to set the public hearing on November 29, 2023, however, there was a request from the Council to include a condition as part of the rezoning that the ground level be constructed such that it could be converted to commercial use at some time in the future. (<https://carrboro.legistar.com/MeetingDetail.aspx?ID=1133526&GUID=AB99B0B3-F1F3-470C-B7C8-A61D5B9185FE&Options=&Search=>).

In March 2022, Mr. Knight and Jim Spencer, the project architect, held a neighborhood information meeting (NIM); ten residents signed in. Materials from the NIM, including the mailing notice and a scan of the sign-in sheet are provided (*Attachment G*).

The applicants received a variance from the Board of Adjustment on September 13, 2023, to allow for encroachment into and placement of fill within the Special Flood Hazard Area (SFHA) along the eastern portion of the property, along the edge of the parking area. The terms of the variance are referenced on the site plan and by condition in the draft rezoning ordinance.

The applicants presented their formal application to the advisory boards on February 1, 2024. Comments are provided (*Attachment I*). Of note, the Appearance Commission only commented on the proposed text amendment, and the Environmental Advisory Board (EAB) did not have a quorum and therefore did not provide comments.

A draft ordinance for the map amendment (rezoning) has been provided (*Attachment B*). The rezoning ordinance includes a list of draft conditions; it is anticipated that the conditions will be further modified during the public hearing process. The final list of conditions must be mutually agreed upon by the Town and the applicant. Should the Town Council approve the text amendment and the rezoning, the applicants would follow with an application for a special use permit-A. The special use permit involves a separate public hearing process; however, the main elements of the development proposal will be determined as part of the consideration of the rezoning.

## **REZONING OVERVIEW**

The process for amending the official Carrboro Zoning Map is described in Article XX of the Land Use Ordinance. The request would be considered a minor map amendment, in that it involves fewer than five parcels and less than fifty acres. The petition form includes four key questions for the applicant to answer: A) how is the proposed rezoning consistent with Town plans and policies, B) in what way is the subject property particularly suited for the potential uses of the new district, C) how will the purposed rezoning affect the value of nearby buildings, and D) in what way does the rezoning encourage the most appropriate use of the land?

More specific information relating to conditional zoning is discussed in Section 15-141.4, of Article IX. As part of the application to rezone property to a conditional district (Section 15-141.4(d)) the applicant must submit a list of proposed conditions which may be in the form of written statements, graphic illustrations, or any combinations thereof, to be incorporated into the ordinance that rezones the property.

## **PETITIONERS/OWNERS**

The petitioners for the rezoning request are J. Allen Knight and Erik M. Lensch of Tempo Investco, LLC. Mr. Knight has also applied for the text amendments on behalf of Investco.

## **DESCRIPTION OF THE AREA**

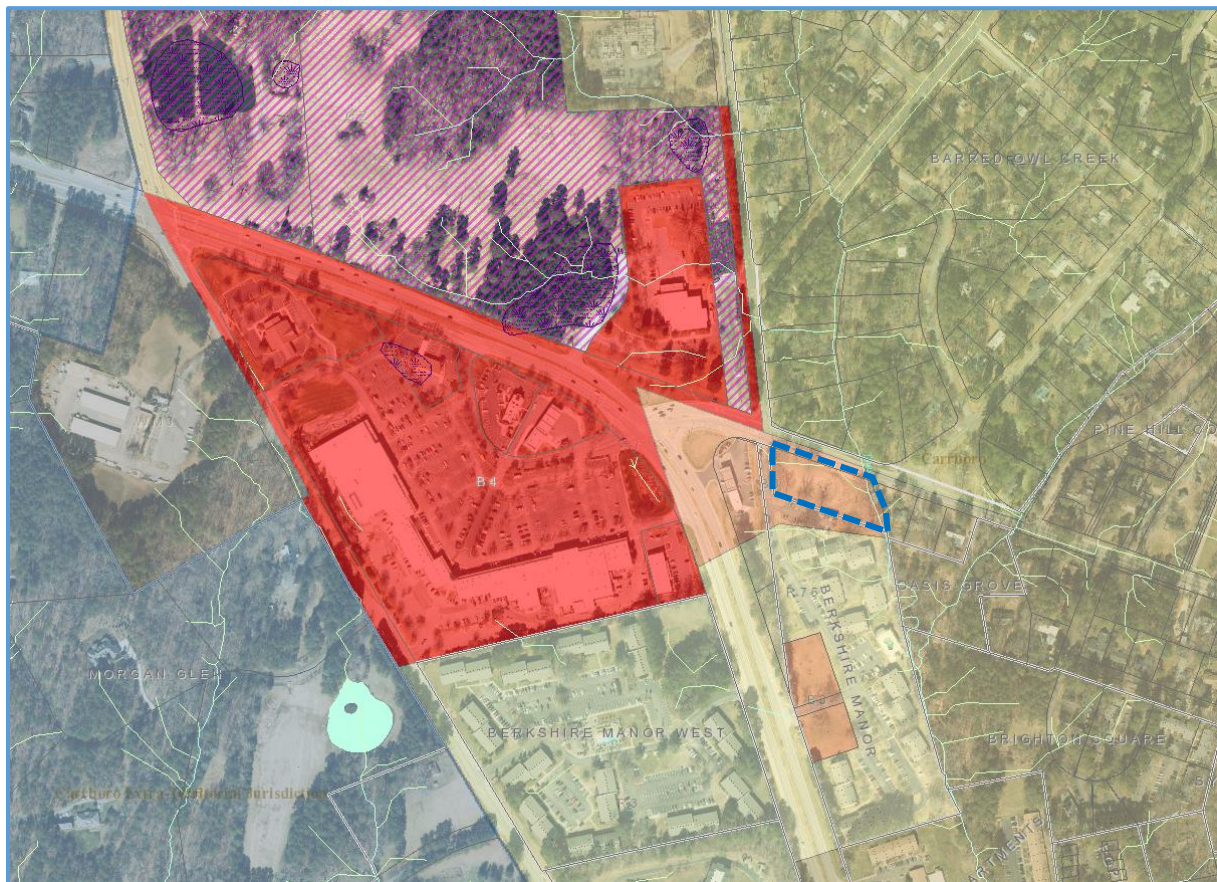
The subject property is the undeveloped parcel located along the south side of West Main Street in front of the garden-style Berkshire Manor apartments. The surrounding area includes mainly single-family one-story ranch style homes along West Main Street, James Street, and Simpson Street. The

area becomes more commercial to the west, with the gas station/convenience store along the same side of the street, the Post Office at the corner of West Main and James streets and Carrboro Plaza on the south side of NC 54 West. The property may be more specifically identified by the table below.

Address	PIN	Existing Zoning	Proposed Zoning	Acres
1307 West Main	9778-28-6664	B-3	R-2-CZ	1.16

### **ADJACENT ZONING & LAND USES**

The map below shows the site (outlined in blue) and adjacent properties with the zoning classifications. The subject property is shaded in pink to indicate the B-3 Zoning District. The Berkshire Manor site is zoned R-7.5 (Residential, 7,500 square feet per dwelling unit), the other surrounding residential areas heading north, and east are zoned R-10 (Residential, 10,000 square feet per dwelling unit). The Post Office and Carrboro Plaza complete are zoned B-4 (Outlying Concentrated Business). The future Shoppes at Lloyd Farm development is zoned B-4, conditional, and the property along the southwest side of Old Fayetteville Road, Watershed Residential).



### **Density and Dimensional Regulations**

More specific information relating to the dimensional standards for the subject property and the surrounding residential districts is provided in the table below. A comparison of the density and dimensional requirements between the existing (B-3) and proposed zoning district (R-2-CZ) is also provided in the table and offers a sense of the potential development impact on adjacent properties,

should the zoning change occur. It should be noted that the draft text amendment includes a requirement to evaluate the potential for developments in the R-2-CZ districts seeking to increase the building height to 65 foot to show the potential for the new building to cast a shadow on existing buildings adjacent lots.

	<b>Existing Zoning B-3</b>	<b>Surrounding Zoning R-7.5</b>	<b>Surrounding Zoning R-10</b>	<b>Proposed Zoning – R-2-CZ</b>
<b>Density</b>	7,500 per dwelling unit	7,500 per dwelling unit	10,000 per dwelling unit	2,000 per dwelling unit
<b>Height</b>	28 feet	35 feet	35 feet	50 feet*
<b>Setbacks</b>	15/20 r/w; 15 lot boundary	25/12.5 r/w; 10 lot boundary	25/12.5 r/w; 12 lot boundary	15/7.5 r/w; 8 + 2 per additional ft above 35 ft for lot boundary

As currently zoned, the property at 1307 West Main would yield a residential density of 6.75 units, with a possible increase to 10 units using the affordable density bonus (adding 2 affordable units and 2 market rate units). The proposed rezoning from B-3 to R-2, conditional, would increase the residential density to base yield of 25.26 units with a maximum of about 38 units utilizing the density bonus of 12 additional units (6 affordable and 6 market rate). The proposed text amendment would allow the Town Council to approve a higher density subject to meeting criteria.

## **COMPARISON OF ZONES**

Zoning provides the planning mechanism that allows certain land uses to occur in defined areas or districts. Article IX of the LUO provides descriptions of the different zoning districts in the Town. Descriptions of the existing and proposed districts are provided below.

**Existing Residential District.** The B-3 Neighborhood Business District is designed to accommodate commercial needs arising at the neighborhood level, such as grocery stores, branch banks, gas sales, and the like, as well as other commercial and office uses that are of such size and scale that they can compatibly coexist with adjoining residential neighborhoods. To insure compatibility between B-3 areas and the neighborhoods, no B-3 district shall be greater than five acres, and no areas shall be zoned B-3 if any portion of a pre-existing business district lies within one-half mile in any direction.

**Proposed Residential District.** The purpose of the residential districts is to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in non-residential districts. The R-2 district provides for a higher density residential zone.

The Table of Permissible Uses, found in Article X, Section 15-146 of the Town of Carrboro Land Use Ordinance (LUO) lists the land uses that are allowed in each zoning district along with permitting requirements (i.e. special use permit-A, special use permit-B, zoning permit). <http://www.townofcarrboro.org/DocumentCenter/View/691/Article-X-Permissible-Uses-PDF-with-table>

A comparison of permitted uses in the zoning districts is summarized in the table below.

<b>General Use Category</b>	<b>Number of Uses Permitted in B-3 District</b>	<b>Number of Uses Permitted in R-2 District</b>	<b>Change in Uses Permitted B-3 to R-2</b>
Residential (1.000)	21	28	+7
Sales and Rental of Goods (2.000)	5	0	-5
Office, Clerical, Research (3.000)	6	0	-6
Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment (4.000)	0	0	0
Educational, Cultural, Religious, Philanthropic, Social (5.000)	3	3	0
Recreation (6.000)	4	4	0
Institutional Residence or Care of Confinement Facilities (7.000)	0	1	+1
Restaurant, Bar, Nightclub (8.000)		0	0
Motor Vehicle-related (9.000)	1	0	-1
Storage and Parking (10.000)	0	0	0
Scrap Materials Salvage Yards, Junkyards, Automobile Graveyards (11.000)		0	0
Services and Enterprises Related to Animals (12.000)		0	0
Emergency Services (13.000)	4	4	0
Agricultural, Silvicultural, Mining, Quarrying (14.000)	0	0	0
Public/Semi-public Utility Facilities (15.000)	4	1	-3
Dry Cleaner, Laundromat (16.000)	2	0	-2
Utility Facilities (17.000)	7	3	-4
Towers and Related Structures (18.000)	4	3	-1
Open Air Markets, Horticultural Sales (19.000)	3	0	-3
Funeral Home (20.000)	0	0	0
Cemetery (21.000)	1	1	0
Day Care (22.000)	4	4	0
Temporary Structure or Parking (23.000)	1	2	+1
Bus Station (24.000)	0	0	0
Commercial Greenhouses (25.000)	0	0	0
Subdivisions (26.000)	2	2	0
Combination Uses (27.000)	1	1	0
Planned Unit Developments (28.000)	0	0	0*
Special Events (29.000)	1	1	0
Planned Industrial Development (30.000)	0	0	0*
Off-Premises Signs (31.000)	0	0	0
Village Mixed Use (32.000)	0	0	0*
Office/Assembly Planned Development (33.000)	0	0	0*
Temporary Lodging (34.000)	0	2	+2

**Comparison of the Number of Uses, by General Category, in Existing and Proposed Zoning Districts.**

\* Permissible only in Planned Unit Development District, Planned Industrial Development, Village Mixed Use District, or Office/Assembly Planned Development (respectively) and subject to a conditional use permit.

## **ANALYSIS**

The conditional zoning mechanism allows for the approval of a site-specific development plan and conditions tailored to the individual project. The conditions, including the site plan, become binding



to the rezoning and subsequent permit, in this case a special use permit-A. If approved, the existing neighborhood business classification would be removed and the new residential classification applied. The specific project design and number of residential units would be approved as part of the rezoning. The proposal is currently designed with 34 residential units; a proposed condition would allow a maximum of 40 units. The use of a density range provides the applicant with a certain amount of flexibility during the development process to make minor adjustments to the development program, if necessary, without having to go back and to amend the conditional district. As noted above, conditions must be mutually agreed upon by the applicant and the Town. Discussions with the applicant have included the possibility of exceeding the stormwater management requirement, such as designing to a higher storm year, and may be considered during permit application. The permit application will require a greater level of detail than the rezoning exhibit and another public hearing, but the overall design must remain consistent with the illustrative site plan approved as part of the rezoning.

The provisions set out in the draft text amendment would allow the maximum building height to be increased from 50 to 65 feet, the approximate equivalent of a full story. The text amendment links the increase in building height to a minimum of 20-percent affordable units (physical or payment in-lieu) and the inclusion of certain site and building elements in the development that will create a more vibrant and successful community and provide essential public infrastructure. This structure follows the same framework established as part of the B-1G, conditional district and M-3, conditional district, whereby an applicant can seek additional uses and/or density for developments that further Town interests. Of note, should the applicants wish to utilize the additional building height, provided by the text amendment, the project would be subject to the 20-percent affordable unit requirement, which exceeds the 15-percent policy goal.

#### **Consistency with Adopted Plans/Policies**

Carrboro Connects 2022-2042 Comprehensive Plan provides goals, strategies, and projects that are expected to guide the Town's growth and development. In the Petition for Change of Zoning the petitioners have provided responses in support of their assertion that the proposed zoning district classification is consistent with the Town's adopted plans and policies. Staff has identified the following relevant sections of Carrboro Connects Comprehensive Plan.

<b>Chapter</b>	<b>Staff Comments</b>	<b>Applicable Strategies</b>
Affordable Housing	<p>The applicant has identified a commitment to provide at least 15% affordable units; the mechanism, number of units, and availability of rental units versus sold units has not yet been determined.</p> <p>If the applicant wishes to use the additional building height provided by the text amendment, 20% affordable units will be required. Additional information on which units (1-, 2-, or 3-bedroom units) will be affordable would be required as part of the SUP-A.</p> <p>Of note, rents at Berkshire Manor currently meet the ordinance's definition of appropriately sized affordable housing unit for both one- and two-bedroom units. (under \$1574 for 1br; \$1799 for 2br)</p>	<p><b>Consistent with:</b> Supports Town policy for 15%, details needed.</p> <p><b>Inconsistent with:</b> -</p> <p><b>Inconclusive:</b> 1.1, 2.1, 2.3, 4.4, 7.2</p>
Climate Action & Environment	(CLIMATE 1.1) More information is needed as to whether residents will be able to access weatherization and/or energy	<b>Consistent with:</b> ENV 1.2

	<p>efficiency programs; the current proposal does not increase use of renewables.</p> <p>(ENV 1.1 &amp; 1.2) The development commits to providing additional flood storage within the water quality buffer on-site and further vegetate the buffer. The Land Use Ordinance includes a recommended plant list and encourages the use of native plants.</p> <p>(ENV 2.1) The site falls within the restriction that development is only allowed to increase the annual volume leaving the property by double the current amount. All runoff in the bio-retention basin will drain down through installed media and infiltrate, or discharge through the underdrains. Strategy 2.1 notes a need to evaluate individual permits within a broader context to ensure that stormwater impacts do not burden flood-prone neighborhood or low-income residents. The site is located in a QCT (107.7), and a census block group identified as a “REINVEST” area by the DCHC MPO (more than 28% of the population is below 150% of the poverty level).</p> <p>The project will be required to meet the stormwater management provisions in the LUO. There may be an opportunity design to a higher storm year, during the permit review process, when the applicant is required to complete the stormwater analysis.</p>	<p><b>Inconsistent with:</b></p> <p><b>Inconclusive:</b> ENV1.1, ENV 2.1, CLIMATE 1.1</p>
Transportation & Mobility	<p>(2.1) The development meets the “close-to-transit” definition in Carboro Connects and will provide new density near an existing commercial hub. The closer the bus stop to the front façade of the project, the more the project meets goals outlined in strategy 2.1.</p> <p>(3.1) The development is adding bicycle parking and is located on Main Street where existing bike and pedestrian infrastructure may incentivize residents to use alternative transportation.</p> <p>(4.2) The project is designed to provide one vehicular parking space per unit, which meets new residential parking maximum standards. If the number of residential units is increased, the applicant may need to consider if additional parking spaces are needed.</p>	<p><b>Consistent with:</b> 2.1, 3.1, 4.2</p> <p><b>Inconsistent with:</b> -</p> <p><b>Inconclusive:</b> -</p>
Green Stormwater Infrastructure, Water, & Energy	<p>(GSI 2.2) Construction would involve removing street trees along West Main Street but includes planting new street trees on the site. The project does not encroach on the water quality buffer for Toms Creek and the 100-year floodplain.</p> <p>(WATER 2.1 &amp; 2.2) The project utilizes retaining walls, an underground stormwater storage system, and a stormwater retention basin to prevent water runoff toward Berkshire Manor residential areas south of the project. The development commits to providing additional flood storage</p>	<p><b>Consistent with:</b> GSI 2.2, WATER 2.1, ENERGY 1.1</p> <p><b>Inconsistent with:</b> -</p> <p><b>Inconclusive:</b></p>

	<p>within the water quality buffer on-site and further vegetate the buffer. More detail on SCMs and treatment is necessary to determine if the proposed stormwater designs are consistent with other goals in this chapter.</p> <p>(ENERGY 1.1, 1.2 &amp; 1.3) The project's limitation on parking provided, and proximity to existing transit and bike/ped facilities aim to limit additional GHG emissions from automobile use by new residents. The project will meet state energy codes, and notes higher density offers higher efficiency of systems—more detail is needed on weatherization efforts or and renewable energy opportunities (either in construction of the project, or for residents that live there)</p>	<p>WATER 2.2, ENERGY 1.2, ENERGY 1.3</p>
Economic Sustainability	<p>(2.2) Proximity to an existing commercial node (Carrboro Plaza) will provide residents nearby access to a variety of businesses. While the development is not mixed-use, the applicant notes that the development could in the future convert the first floor to commercial use (though that is not a requested use for the project).</p>	<p><b>Consistent with:</b> 2.2</p> <p><b>Inconsistent with:</b> -</p> <p><b>Inconclusive:</b> -</p>
RPCR	Not applicable	N/A
Land Use	<p>(8.1) NC54 Corridor future land use map identifies this parcel as open space/park. Adjacent future land uses include residential to the east and denser multifamily residential to the south. The NC 54 Corridor section of the plan prioritizes the addition of multi-modal amenities to enhance walkability and bikeability, pedestrian improvements to existing development, and creation of new public or private open spaces.</p> <p>(8.1) This project's location does not improve or worsen safety cyclists and pedestrians at NC54 and West Main Street.</p> <p>(8.1) The project does commit to a mulched/pervious trail along Toms Creek, which touches on the plan's vision of a bike/ped connection from West Main Street to Poplar Avenue—the Comprehensive Plan identifies a desire to explore easements for such a facility.</p> <p>(2.1, 2.2, 2.5) Strategies 2.1 and 2.2 may be relevant—the development is located along a key corridor, is transit-accessible, and near businesses—however without further details about the provision of affordable housing, consistency cannot fully be evaluated.</p> <p>(3.1) More detail is needed to determine consistency with strategy 3.1—"pursue development provisions that preserve and maintain natural areas by incorporating environmentally sensitive development and building practices." It is anticipated that the strategy will be addressed as part of the site and building elements identified in the text amendment.</p>	<p><b>Consistent with:</b> 4.1</p> <p><b>Inconsistent with:</b> 8.1 *see summary comments</p> <p><b>Inconclusive:</b> 1.2, 2.1, 2.2, 2.5, 3.1</p>



	(4.1) The development's proximity to transit, connection to existing bike and pedestrian facilities, and reduced parking does meet the plans goals of promoting development that reduces GHG emissions by reducing auto-dependence.	
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### **CONSIDERATIONS/SUMMARY COMMENTS**

- Adopted policies support the establishment of conditional districts.
- The conditional district process (legislative action for the rezoning) is expected to mitigate the associated impacts of the additional density requested as part of this development.
- Town policies acknowledge an interest and need for increased residential density particularly along transit corridors.
- The site's location provides connections to surrounding neighborhoods within reasonable distances for walking, biking.
- The applicant identified policy provisions appear to be consistent with the request.
- \*As noted above, the Future Land Use Map in Carrboro Connects, identifies the subject property as a park. This is a clerical error. Per Section 15-6(b)(1), the Town Council's action to amend the Official Zoning Map will also amend the Future Land Use Map.

### **ACTION REQUESTED**

Staff requests that the Town Council receive public comment and consider the request to rezone the property at 1307 West Main Street to R-2-CZ.

### **RELEVANT ORDINANCE PROVISIONS**

The LUO describes the steps for the Council when adopting or rejecting any zoning map or text amendment, as noted in the excerpt below from Section 15-324.

The Council shall adopt a statement describing whether the action is consistent or inconsistent with an adopted comprehensive plan.

- If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional request or application for a plan amendment shall be required. The consistency resolution prepared in the packet includes language to guide the Council's action to amend the Future Land Use Map.
- A plan amendment and zoning amendment may be considered concurrently.
- When adopting or rejecting any petition for a zoning map amendment the Council shall adopt a statement explaining the reasonableness of the proposed rezoning. The statement of reasonableness may consider, among other factors: (i) the size, physical conditions, and other attributes of any area proposed to be rezoned; (ii) the benefits and detriments to the landowners,

the neighbors, and the surrounding community; (iii) the relationship between the current actual and permissible development and the development permissible under the proposed amendment, (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

Section 15-325 of the LUO specifies that when considering an amendment, the central issue before the Town Council is “whether the proposed amendment advances the public health, safety or welfare.” The Council is obligated to disregard advantages or disadvantages to the individual requesting the change and must consider the impact of the proposed change on the public at large.

Please also note the expanded conflict of interest provisions adopted as part of 160D, which extends the conflict of interest to include familial, business, or other associational relationships.

**Relevant excerpts from Land Use Ordinance articles IX and XX are provided as Attachment J.**