



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: February 26, 2018

To: Wendell Davis, County Manager

Through: Jay Gibson, General Manager

From: Patrick O. Young, AICP, Planning Director

Subject: *Unified Development Ordinance* Text Amendment, Omnibus Changes 11 (TC1700005)

Summary. Text amendment TC1700005 proposes technical revisions and minor policy changes to various provisions of the *Unified Development Ordinance* (UDO). The amendments are identified as necessary corrections, clarifications, re-organization, or other minor changes to more accurately comply with the intent of the regulations or codify interpretations of regulations, or reflect minor policy changes and are not solely technical in nature.

Recommendation. That the Board of County Commissioners approve the attached Ordinance to amend Article 2, Review Authority; Article 3, Applications and Permits; Article 4, Zoning Districts; Article 5, Use Regulations; Articles 6, District Intensity Standards; Article 7, Design Standards; Article 9, Landscaping and Buffering; Article 10, Parking and Loading; Article 12, Infrastructure and Public Improvements; Article 16, Design Districts; and Article 17, Definitions, of the *Unified Development Ordinance*; and approve a consistency statement declaring the request consistent with the Durham *Comprehensive Plan* and that the request is reasonable and in the public interest. Information supporting these recommendations is found within this memo, attached documents, and any information provided through the public hearing.

Background. The Planning Department has initiated ten technical and minor policy change text amendments since the UDO took effect on January 1, 2006. In each case, both governing bodies adopted the proposed text amendment. This text amendment would continue the practice of making comprehensive technical and other minor policy revisions to the UDO as necessary. Concurrent with the Joint City-County Planning Committee (JCCPC) review, other city and county departments, including respective Attorney's offices, have reviewed proposed text changes prior to initiating the public hearing process.

The JCCPC was presented with a draft for review and comment on October 4, 2017. No revisions beyond technical corrections were requested. The Planning Commission recommended approval, 13-0, of the text amendment on December 12, 2017. The Planning Commission determined that the Ordinance request is consistent with the adopted *Comprehensive Plan* and that the request is reasonable and in the public interest based on comments received at the public hearing and the information in the staff report. The Durham City Council considered this amendment at its February 19, 2018, meeting.

Issues. The proposed amendments are listed in Attachment B to this document, with a summary as follows:

Part 1: Amendments to Articles 2, Review Authority and 3, Applications and Permits.

- Technical revision regarding a reference to the Durham Design Manual. The current reference is incorrect and no specific ordinance reference is required.
- Revised zoning map change deferral request deadline to better coincide with governing body schedules.
- Additional standards for minor preliminary plats. This codifies a type of final plat that allows for limited small subdivisions that is not exempt but does not require a preliminary plat. It is currently utilized and reflected in the fee schedule.
- Clarifying text and re-organization regarding required permits, including construction drawings, in coordination with plat and site plan approval.
- Additional text to add a re-submittal deadline and an expiration date for sign permits. It is commonplace to have expirations on permits and this corrects a deficiency with the sign permit.

Part 2: Amendments to Articles 4, Zoning Districts and 5, Use Regulations.

- Addition of parking standards to the list of standards that can be modified within a neighborhood protection overlay (-N). This change, borne from work related to the current Old West Durham NPO application, recognizes the need to consider parking strategies within distinctive neighborhoods, as applicable, that general parking standards may not adequately address.
- Technical correction of references to Article 16 in the Use Table.
- Technical correction to the characteristics of Heavy Industrial uses.
- Technical corrections within the limited use standards for references to Design Districts.

- Additional limitations to limited use standards for convenience Stores with Gasoline Sales regarding parking. The proposed changes acknowledge the need to require some parking at the convenience store itself and not create conditions of unsafe vehicular stacking due to a lack of non-fuel station parking options.
- Removal of parking requirement for accessory dwellings. This has been determined to be an unnecessary additional off-street parking space since single-family lots generally has enough driveway or parking pad space to accommodate more than two vehicles, and is seen as a simple way to reduce costs to developing an organic type of affordable housing.
- Clarified text regarding outdoor activities for certain home occupations. This recognizes the fact that some home occupations, particularly those associated with instructional services, would create no more impact than allowed home daycares that also have outdoor playspace.
- Revised temporary use permit issuance period for special events for civic, religious, and other non-profits. This recognizes the need, and benefit, to allow certain institutions to hold special events semi-annually instead of annually.

Part 3: Amendments to Articles 6, District Intensity Standards and 7, Design Standards.

- Amendment to residential infill standards for the Urban Tier to clarify that they shall apply to residential structures and those originally designed as residential structures but since converted to non-residential uses. Current non-residential development standards for the Urban Tier already maintain maximum street yards which are in line with infill development.
- Technical amendments regarding development in the Rural Tier or areas not within a tier. This clarifies a regulatory vacuum since the ordinance currently does not address this instance.
- Additional height allowance for the IL District within the Suburban tier consistent with pre-UDO standards, as requested by the Chamber of Commerce.
- Amendment to townhouse rear yard standard within the Urban Tier to codify interpretation of how the standard is applied.

Part 4: Amendments to Articles 9, Landscaping and Buffering and 10, Parking and Loading.

- Technical revisions clarifying types of trees required within project boundary buffers.

- Technical revisions clarifying standards for fences and walls. Clarifies applicability to public and private streets.
- Technical revision clarifying handicap accessible parking for park and ride areas. The additional text recognizes the need to place such parking spaces within park and ride areas.
- Adjustments to on-street parking allowance for parking requirements to allow applicability for single family and two family lots. The on-street parking allowance cannot currently be applied to single-family or duplex housing. This will allow it while maintaining some requirement of off-street parking.
- Adjustments to on-street parking allowance for handicap accessible parking spaces. This amendment would allow for change of use where handicap accessible spaces may be required, no on-site placement is feasible but on-street placement would be feasible.

Part 5: Amendments to Article 16, Design Districts.

- Revision to the Support 2 35-foot height limitation to allow for the standard maximum height through a special use permit approval. This allows for public review and approval through a quasi-judicial hearing if an applicant seeks additional height. This allows for a case-by-case determination whether the additional height is appropriate.
- Revision to Support 2 step back requirement to mandate it only when additional height provisions are utilized. This amendment makes the 10-foot step-aback a more meaningful facade articulation.

Part 6: Amendments to Article 17, Definitions.

- Technical clarification for street yards associated with common access drives for townhouses.

Additional amendments proposed subsequent to JCCPC review.

- *Paragraph 5.1.1A.2, Permitted Subject to Limitations (L):* For notes associated to residential uses in the use table, added reference to Article 16, Design Districts.
- *Sec. 6.6, Affordable Housing Bonus*^{*}: After discussions with affordable housing advocates, it was determined that removing the limitations to the bonus (removing the requirements that new projects have a minimum of 15 dwelling units, limits on location of smaller lots, or that

^{*} As further discussed below, the proposed set of amendments for Sec. 6.6 will be removed from this text amendment request and relocated within text amendment case TC1600005. No changes to the proposed amendments have been made.

the project cannot be 100% affordable) may help aid more affordable infill developments.

- *Paragraph 6.8.2, Lot Width:* Additional text allowing for lot width flexibility associated with affordable housing dwelling units. This would aid in utilizing the Affordable Housing Bonus, particularly in the Urban Tier.
- *Paragraph 6.11.3B, Dimensional Requirements:* The current standard requires a minimum of two acres to establish a Planned Development Residential (PDR) District. Staff cannot determine the need for a minimum requirement since establishing a PDR district requires governing body approval and a development plan. This can aid in allowing for flexible residential development design that could accommodate affordable housing options.
- *Paragraph 9.2.5A, Easements:* Amendments to landscaping requirements within and near easements, requested by the City Stormwater Services Division, to clarify existing text and remove text the regarding stormwater control measures that are already regulated through Stormwater Services.
- *Paragraph 10.3.1B.7:* Revision to household living parking standards, reducing the minimum parking requirement for dwelling units that qualify as affordable housing in order to reduce the amount of land needed for parking, which could aid in implementing an affordable housing density bonus, and reduce the costs associated with parking. The UDO already removes minimum parking for affordable housing dwelling units in the Compact Neighborhood Tier. This revision applies that same standard to the Urban Tier.
- *Paragraph 12.4.2, Sidewalk Requirement:* Added “minor plat” to specify these types of plats would also require sidewalk as applicable.
- *Section 17.3, Defined Terms:* Revised to the definition of “flag lot” to provide more specificity in intent and design.

Changes subsequent to the Planning Commission hearing.

- *Reconciling amendments to Sec. 6.6, Affordable Housing Bonus with proposed text amendment case TC1600005, Compact Neighborhood Interim Affordable Housing Bonuses.* Due to the timing of these two text amendments, and as discussed during the Planning Commission hearing, staff and the Planning Commission determined that amendments proposed for Sec. 6.6 within TC1700005 should be added to TC1600005 for ease of review and to eliminate potential errors in the timing of the amendments. The proposed amendments will be highlighted within TC1600005 and discussed accordingly.

Consistency with the *Comprehensive Plan*; Reasonable and in the Public Interest.

The purpose of this, and similar text amendments that have preceded this one, is to update, clarify, and implement minor changes to a significant regulatory tool (the UDO) that implements various development policies found within the *Comprehensive Plan*; a reasonable undertaking and in the public interest. These omnibus text amendments are consistent with the Durham Comprehensive Plan Vision, which states:

- “Promote the creation, enhancement and sustainability of a healthy, livable, safe and beautiful community for all Durham citizens.
- Promote a range of choices in transportation, education, housing and economic opportunities to effectively serve a diverse community.
- Promote the identity of our distinct neighborhoods by encouraging design elements and public facilities appropriate to the character of each area.
- Protect our historic heritage, open spaces and natural resources.
- Provide opportunities for high quality growth and development.”

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Attachments:

Attachment A: Statement of Consistency Pursuant to NCGS § 153A-341

Attachment B: An Ordinance to Amend Provisions of the Unified Development Ordinance (TC1700005)

Attachment C: Planning Commission Comments